

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

JOHN KNIGHT, DONNA RUSSELL
KNIGHT d/b/a THE GLASS EYE
GALLERY, CHARLES COLE, VIIU
NILER, COUNTRY GLASS SHOP,
AUNT SADIE'S, INC., AND SUSAN
BOERMAN,

Plaintiffs,

v.

CHRISTMAS TREE SHOPS, INC.,

Defendant.

Case No. 04 12698 JLT

AFFIDAVIT OF CARRIE KEI HEIM

I, Carrie Kei Heim, do hereby depose and say under oath as follows:

1. I am an attorney with the firm of Mintz Levin Cohn Ferris Glovsky & Popeo, PC, counsel for the defendant, Christmas Tree Shops, Inc. ("CTS"). I am familiar with the facts in, and procedural history of, the above-captioned action and am submitting this Affidavit and the exhibits attached hereto in support of Christmas Tree Shops, Inc.'s Motion for Summary Judgment.

2. Attached to this Affidavit at Exhibit A are true and accurate copies of excerpts from the certified transcript of the September 23, 2005 Deposition of Carolyn Cummings.

3. Attached to this Affidavit at Exhibit B are true and accurate copies of excerpts from the certified transcript of the November 8, 2005 Deposition of Gregory Bilezikian.

4. Attached to this Affidavit at Exhibit C are true and accurate copies of excerpts from the certified transcript of the November 8, 2005 Deposition of Janice Laliberte.

5. Attached to this Affidavit at Exhibit D are true and accurate copies of excerpts from the certified transcript of the November 8, 2005 Deposition of Deborah Watts.

6. Attached to this Affidavit at Exhibit E are true and accurate copies of excerpts from the certified transcript of the November 9, 2005 Deposition of John Knight.

7. Attached to this Affidavit at Exhibit F are true and accurate copies of excerpts from the certified transcript of the November 9, 2005 Deposition of Gary Briggs.

8. Attached to this Affidavit at Exhibit G are true and accurate copies of excerpts from the certified transcript of the November 10, 2005 Deposition of Viiu Niiler.

9. Attached to this Affidavit at Exhibit H are true and accurate copies of excerpts from the certified transcript of the February 7, 2006 Deposition of Charles Bilezikian.

10. Attached to this Affidavit at Exhibit I are true and accurate copies of a drawing and photo of the “sconce” described at paragraph 20 of the Amended Complaint (hereinafter “Glass Eye Sconce”), produced by Plaintiffs John Knight and Donna Russell Knight d/b/a The Glass Eye Gallery (collectively “Glass Eye”) in response to CTS’s requests for production of documents.

11. Attached to this Affidavit at Exhibit J are true and accurate copies of sales numbers for the Glass Eye Sconce produced by Glass Eye in response to CTS’s requests for production of documents.

12. Attached to this Affidavit at Exhibit K are true and accurate copies of Glass Eye Gallery advertising produced by Glass Eye in response to CTS’s requests for production of documents.

13. Attached to this Affidavit at Exhibit L are true and accurate copies of the Glass Eye logo and product labels produced by Glass Eye in response to CTS's requests for production of documents.

14. Attached to this Affidavit at Exhibit M are true and accurate copies of sales records for the allegedly infringing CTS "wall vase," kept by CTS in the usual course of its business and produced by CTS in response to Plaintiffs' requests for production of documents.

15. Attached to this Affidavit at Exhibit N is a true and accurate copy of a photo of the "grape plate" described at paragraph 21 of the Amended Complaint (hereinafter "Country Glass Sun Catcher"), produced by Plaintiffs Charles Cole, Viiu Niiler and Country Glass Shop (collectively "Country Glass") in response to CTS's requests for production of documents.

16. Attached to this Affidavit at Exhibit O are true and accurate copies of sales numbers for the Country Glass Sun Catcher produced by Country Glass in response to CTS's requests for production of documents.

17. Attached to this Affidavit at Exhibit P are true and accurate copies of Museum of Fine Arts catalog pages containing images of Country Glass products produced by Country Glass in response to CTS's requests for production of documents.

18. Attached to this Affidavit at Exhibit Q are true and accurate copies of the Country Glass logo and product labels produced by Country Glass in response to CTS's requests for production of documents.

19. Attached to this Affidavit at Exhibit R is a true and accurate copy of a document containing photos of the allegedly infringing CTS "basket plate hanger," kept by CTS in the usual course of its business and produced by CTS in response to Plaintiffs' requests for production of documents.

20. Attached to this Affidavit at Exhibit S are true and accurate copies of sales records for the CTS basket plate hanger, kept by CTS in the usual course of its business and produced by CTS in response to Plaintiffs' requests for production of documents.

21. Attached to this Affidavit at Exhibit T are true and accurate copies of website images of the "Candles in a Can" described at paragraph 22 of the Amended Complaint (hereinafter "Aunt Sadie's Apple Pie, Happy Birthday, It's a Boy and It's a Girl Candles"), downloaded by counsel for CTS from various retail websites, including the website of Plaintiff Aunt Sadie's, Inc. ("Aunt Sadie's").

22. Attached to this Affidavit at Exhibit U are true and accurate copies of sales numbers for the Aunt Sadie's Apple Pie, Happy Birthday, It's a Boy and It's a Girl Candles produced by Aunt Sadie's in response to CTS's requests for production of documents.

23. Attached to this Affidavit at Exhibit V are true and accurate copies of Aunt Sadie's magazine promotions produced by Aunt Sadie's in response to CTS's requests for production of documents.

24. Attached to this Affidavit at Exhibit W are true and accurate copies of a letter from Aunt Sadie's co-owner Gary Briggs to CTS, and attached letter from an Aunt Sadie's customer, sent to CTS prior to litigation, kept by CTS in the ordinary course of business, and produced by CTS in response to Plaintiffs' requests for production of documents.

25. Attached to this Affidavit at Exhibit X are true and accurate copies of the label designs for the allegedly infringing CTS "candle tins," kept by CTS in the usual course of its business and produced by CTS in response to Plaintiffs' requests for production of documents.

26. Attached to this Affidavit at Exhibit Y are true and accurate copies of sales records for the CTS candle tins, kept by CTS in the usual course of its business and produced by CTS in response to Plaintiffs' requests for production of documents.

27. Attached to this Affidavit at Exhibit Z is a true and accurate copy of the front cover of the 29-page book, It's Great to Create by Susan R. Boerman, described at paragraph 14 of the Amended Complaint, purchased on eBay by counsel for CTS.

28. Attached to this Affidavit at Exhibit AA are true and accurate copies of pages 20-21 and 24-25 of It's Great to Create, produced by Boerman's counsel by e-mail on September 16, 2005, pursuant to CTS's request for additional information regarding Boerman's claims.

29. Attached to this Affidavit at Exhibit BB are true and accurate copies of sales records for the allegedly infringing CTS "painted Christmas hanger" and "fall painted plaque," kept by CTS in the usual course of its business and produced by CTS in response to Plaintiffs' requests for production of documents.

30. Attached to this Affidavit at Exhibit CC is a true and accurate copy of a CTS advertising flyer, kept by CTS in the usual course of its business and produced by CTS in response to Plaintiffs' requests for production of documents.

31. Attached to this Affidavit at Exhibit DD is a true and accurate copy of two CTS price labels, representative of those attached to the CTS products used in deposition by counsel for Plaintiffs.

Signed, under the pains and penalties of perjury, this 15th day of May, 2006.

/s/ Carrie Kei Heim
Carrie Kei Heim

COPY

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JOHN KNIGHT, et al.,
Plaintiffs,

vs.

04-12698-JLT

CHRISTMAS TREE SHOPS, INC.,
Defendant.

TESTIMONY OF CAROLYN CUMMINGS, called as a
witness by and on behalf of the Plaintiffs, taken
pursuant to the Federal Rules of Civil Procedure,
before Paula E. Hogan, CSR, RPR, Notary Public in and
for the Commonwealth of Massachusetts, taken at Ramada
Regency Hotel, 1127 Route 132, Hyannis, MA, on Friday,
September 23, 2005, commencing at 9:00 a.m.

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BED BATH & BEYOND

ALSO PRESENT:

JOHN FRANCIS KNIGHT
DONNA RUSSELL KNIGHT

1 wrap, gift bags, stationery, cards.

2 Q. Do you supervise any other employees?

3 A. Not right now.

4 Q. What are your job responsibilities?

5 A. Buying the paper goods categories.

6 Q. And how do you decide what products to
7 buy?

8 A. Many, many different ways.

9 Q. Well, tell me some of them.

10 A. Well, there's a past history to look at,
11 what's sold in the past. And I buy a lot of basic
12 commodity items, like napkins and things like that.

13 Q. So, the basic commodity items you order
14 and reorder them each year, is that right?

15 A. I have a lot of those, yes.

16 Q. And what about new products, how do you
17 decide which new products to buy?

18 A. We go to a lot of shows. We visit a lot
19 of vendors.

20 Q. What shows do you attend?

21 A. I attend the stationery show.

22 Q. And where is that?

23 A. New York. Atlanta Gift Show, ASD Show.

24 Q. What is that?

1 A. It's called ASD.

2 Q. What does that stand for?

3 A. I don't know. It's Las Vegas, a big trade
4 show.

5 Q. And what type of products do they have
6 there?

7 A. Many different products. You name it.
8 They have gift products, they have apparel, they have
9 jewelry, they have hunting, they have it all.

10 Q. And when you go to these gift shows, what
11 are you doing there?

12 A. Meeting people, looking for products,
13 looking for trends, looking for closeouts, looking for
14 new vendors.

15 Q. Now, concerning closeouts, does Christmas
16 Tree Shops have a policy of buying closeouts?

17 A. A policy? We buy them. I don't know,
18 there's no policy.

19 Q. You buy them, I mean, that is a policy.

20 A. Okay. Yeah, we buy closeouts.

21 MR. BIAGETTI: Objection. You may
22 answer.

23 A. Yes, we buy closeouts.

24 Q. Who gives you instructions about buying

1 things like closeouts?

2 A. We're very independent buyers, so I
3 wouldn't necessarily say there are instructions.

4 Q. When you order a product, does anybody
5 have to approve it?

6 A. No.

7 Q. Now, you say you look for trends, tell me
8 what that means.

9 A. Colors that are popular, new items,
10 something that looks fresh.

11 Q. If you see a new item that looks good, do
12 you order it?

13 A. We could.

14 Q. Do you ever try to duplicate that item?

15 A. Duplicate it?

16 Q. Yes.

17 A. We might use it for inspiration.

18 Q. Do you order these products as samples?

19 A. Yes. Sometimes we have.

20 Q. Do you ever send the sample to a vendor to
21 see if they can produce something similar to it?

22 A. Yes.

23 Q. Does Christmas Tree Shops have a written
24 intellectual property policy?

1 A. A company called Briwell.

2 Q. And where are they located?

3 A. China.

4 Q. Did you order that piece?

5 A. Yes.

6 Q. How did you go about ordering that piece?

7 Did you send Plaintiffs' Exhibit number 5 as a sample
8 to Briwell?

9 A. Yes.

10 Q. And what instructions did you give them?

11 A. I don't know.

12 Q. Well, they look pretty close to me, did
13 you tell them to copy it?

14 MR. BIAGETTI: Objection.

15 A. No.

16 Q. What did you tell them to do?

17 MR. BIAGETTI: Objection.

18 A. I don't remember.

19 Q. Why don't you tell me what are the
20 similarities between those two sconces and the
21 differences?

22 A. They're glass and metal.

23 Q. What kind of glass?

24 A. Stained glass.

1 Q. Do you know what opalescent glass is?

2 A. No.

3 Q. Do you know if either of these two contain
4 opalescent glass?

5 A. I do not.

6 MR. BIAGETTI: Have you finished your
7 answers of similarities and differences?

8 THE WITNESS: I have not.

9 Q. Would you continue, please?

10 A. The front of this one is square.

11 Q. Are you referring to the metal?

12 A. Yes.

13 Q. And what type of metal is it?

14 A. I don't know.

15 Q. Do you know what type of metal the other
16 one is?

17 A. I don't know.

18 Q. Did you give any instructions to Briwell
19 on what type of metal to use?

20 A. No.

21 Q. Did they produce the sample for you before
22 you made an order?

23 A. Yes.

24 MR. BIAGETTI: Have you completed your

1 answer on similarities and differences?

2 THE WITNESS: No.

3 MR. BIAGETTI: I think you should be
4 allowed to complete that.

5 Q. Go right ahead.

6 A. This one has a hanger and this one does
7 not.

8 Q. What do you mean by a hanger?

9 A. A hanger to hang it up.

10 Q. Do you mean a loop?

11 A. I mean a ribbon hanger.

12 Q. A ribbon. Okay. Please continue.

13 A. This one the metal is a different color
14 and it looks thinner.

15 Q. Why don't you describe the colors of the
16 two different pieces?

17 A. One is light blue stained glass with a
18 light color grayish metal. And one is purple gray
19 with an almost black color metal.

20 Q. How many different colors of glass did you
21 order from Briwell?

22 A. Several.

23 Q. What do you mean by several?

24 A. I would have to look at the purchase order.

1 there reflect the colors that were ordered?

2 A. No.

3 Q. Can I see that again, please?

4 A. Yes.

5 Q. On the second page that's marked CTS0057,
6 I see wall vase, stained glass cream, green, white --

7 A. Oh, I'm sorry. I didn't see it.

8 Q. -- pink, light pink, blue, purple, add
9 ribbon. Could you look at that again, please?

10 A. Cream, green, white, pink, light blue,
11 purple, add ribbon.

12 Q. How many colors is that?

13 A. Six.

14 Q. So, Plaintiffs' Exhibit number 6, this
15 would be the blue one, is that correct?

16 A. Correct.

17 Q. Who decided to choose those colors?

18 A. Me.

19 Q. And how did you make that decision?

20 A. I just liked them.

21 Q. Okay.

22 MR. JOSEPH: Could you mark this as
23 the next number, please?

24 (Whereupon, the document referred to

1 by counsel was duly marked for
2 identification as Exhibit #17.)

3 BY MR. JOSEPH:

4 Q. You testified that you were finished with
5 your analysis of the similarities of these two
6 sconces, is that correct?

7 A. There's only one more difference.

8 Q. What is that?

9 A. One has our Christmas Tree Shops price
10 sticker on it and the other one does not.

11 Q. Also the Christmas Tree Shops one does say
12 Made in China, is that correct?

13 A. Yes.

14 Q. Now, is that sticker permanent and
15 indelible?

16 MR. BIAGETTI: Objection. You may
17 answer.

18 MR. JOSEPH: He will tell you, I
19 believe, if he instructs you not to answer a question,
20 is that correct?

21 MR. BIAGETTI: I haven't been bashful
22 about it so far.

23 A. It can be peeled off.

24 Q. Now, are these two sconces the same size?

1 A. It could, I don't know.

2 Q. And what was the price change?

3 A. \$1.99 to \$1.

4 Q. Were there any sales? Does that document
5 reflect any sales at \$1? There's only one page there,
6 is that correct?

7 A. 5,188.

8 Q. 5,188?

9 A. Yes.

10 Q. And what's the year for that?

11 A. Price change was February 4, '04.

12 Q. So, would that 5,188 be in addition to the
13 other sales that we talked about?

14 A. No.

15 Q. So, it's part of those sales?

16 A. Correct.

17 Q. Some of the sales were at \$1.99, some were
18 at a dollar?

19 A. Correct.

20 Q. And who effected that price change?

21 A. Phyllis.

22 Q. Who is Phyllis?

23 A. An administrative assistant.

24 Q. And what department is she in?

1 at the Glass Eye, is that correct?

2 A. Correct.

3 Q. Was the sconce also purchased at the Glass
4 Eye?

5 A. Yes.

6 Q. You just don't know the person who did it?

7 A. Correct.

8 Q. Did you see the sconce at the Glass Eye?

9 A. Yes.

10 Q. I'm going to show you a document marked
11 Plaintiffs' Exhibit number 8. Do you recognize that?

12 A. Yes.

13 Q. What is it?

14 A. Blueberry glass plate.

15 Q. That's how you identified number 7?

16 A. Correct.

17 Q. Why don't we go through the similarities
18 and differences between the two.

19 A. Okay.

20 Q. Why don't you tell me. Why don't you
21 start with the differences.

22 A. This one is a little bit darker than this
23 one.

24 Q. Please say by exhibit number.

1 A. Number 7 is a lighter color than number 8.
2 Number 8 is a little bit smaller.

3 Q. Are you done with the differences?

4 A. Number 8 has a leather hanger through a
5 hole on the top. Okay.

6 Q. Are you done with the differences?

7 A. Yes.

8 Q. What are the similarities?

9 A. Number 7 and 8 are blueberry, blue glass
10 plates with a basket on the front, with flowers and
11 blueberries.

12 Q. Have you ever heard it referred to as a
13 Nantucket basket?

14 A. Oh, can I go back. When you mentioned the
15 basket, there's a little bit of difference on the
16 basket.

17 Q. Sure.

18 A. This just has very round pieces of glass
19 making the basket and this one is just more oval.

20 Q. Why don't you identify them by number?

21 A. The number 7 the basket has more round
22 pieces of glass to form the basket. Number 8 looks a
23 little more oval.

24 Q. If you compare the fruit, do you know what

1 kind of fruit that is?

2 A. I do not.

3 Q. Concerning the basket, do you know if the
4 ridges are the same number of bumps on the basket
5 part? Do you know that?

6 A. I do not know.

7 Q. I'm not going to count them. Why don't
8 you compare the leaves, are the leaves the same size
9 and shape on both of them?

10 A. Number 8, the leaves have more lines in
11 them; number 7 they're smoother.

12 Q. Did you order the plate that's marked as
13 exhibit number 8?

14 A. I did not.

15 Q. Do you know who did?

16 A. Yes.

17 Q. Who was that?

18 A. Greg Belizekian.

19 MR. JOSEPH: We'll mark this document
20 as the next number, please.

21 (Whereupon, the document referred to
22 by counsel was duly marked for
23 identification as Exhibit #20.)

24 BY MR. JOSEPH:

1 Q. How did it come about that Greg Belizekian
2 ordered the plate when you saw it and identified it at
3 the Glass Eye as a good product?

4 A. We worked together very closely.

5 Q. Was he the glass buyer?

6 A. No.

7 Q. You were the glass buyer at the time, is
8 that correct?

9 A. Correct.

10 Q. Why would he have ordered the plate then?

11 A. Divisional merchandise managers can buy
12 products under their buyer's responsibilities.

13 Q. I want to show you the document that's
14 been marked exhibit 20, Bates stamped CTS9 and 10. Do
15 you recognize it?

16 A. It's a sales contract.

17 Q. And who is the sales contract with?

18 A. Zibo Anto Glass Industry.

19 Q. And where are they located?

20 A. China.

21 Q. And what is it an agreement for,
22 concerning what product or products?

23 A. Glass wind spinners, glass plate hanging
24 and glass wind spinner.

1 Q. Does it include the plates we're talking
2 about here, Plaintiffs' exhibit 8?

3 A. Yes.

4 Q. And how many plates were ordered?

5 A. 4800.

6 Q. And what was the cost?

7 A. 50 cents.

8 Q. Do you know if the plates or a plate just
9 like Plaintiffs' Exhibit number 7 was shipped to Zibo
10 as a sample?

11 A. Yes.

12 Q. Did you ship it to them?

13 A. No.

14 Q. Do you know who did?

15 A. No.

16 Q. How do you know that it was shipped to
17 Zibo?

18 A. It was in our office, and it went in a box
19 and was shipped.

20 Q. Did you see it be put in that box?

21 A. No.

22 Q. But that is the normal practice to send
23 off samples to a supplier like that?

24 A. We have sent samples to suppliers.

1 Q. And who prepared that picture?

2 A. I don't know.

3 Q. What was the purpose of that document?

4 A. There's instructions, there's information
5 saying -- do you want me to read it?

6 MR. BIAGETTI: The document will speak
7 for itself. If it triggers a memory of yours of what
8 its purpose was, you may testify to your memory.

9 A. The bottom portion is regarding purchase
10 order 31656. And it's an e-mail correspondence
11 regarding the glass plate basket plate hanger,
12 instructing to put two holes in the back of it and a
13 leather strap for hanging.

14 Q. Well, I'm looking at the plate now and I
15 only see one hole.

16 A. Correct.

17 Q. Were there supposed to be two?

18 A. Yes.

19 Q. So that was a mistake then, is that
20 correct?

21 MR. BIAGETTI: Objection.

22 Q. Your instructions called for two holes, is
23 that right?

24 A. Yes.

1 Q. Why did you or the person who wrote that
2 instruction -- who wrote that instruction?

3 A. Me.

4 Q. Okay. Why did you want two holes?

5 A. To hang the item.

6 Q. Where would the other hole have gone?

7 A. One here and one here.

8 Q. I see.

9 MR. JOSEPH: Could you mark this one,
10 please?

11 (Whereupon, the document referred to
12 by counsel was duly marked for
13 identification as Exhibit #27.)

14 MR. JOSEPH: Thank you.

15 BY MR. JOSEPH:

16 Q. I'm going to show you the document marked
17 Plaintiffs' Exhibit 27, CTS104. Do you recognize this
18 document?

19 A. It's the glass plate hanger photograph.

20 Q. Yes. And there seems to be two different
21 sizes in the photograph of the glass plates. Could
22 you explain that to me, please?

23 A. I cannot.

24 Q. Was there an intent to make it in

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss
Re: KNIGHT, et al. V. CHRISTMAS TREE SHOPS, INC.

I, PAULA E. HOGAN, CSR, RPR, Notary Public in and
for the Commonwealth of Massachusetts, do hereby
certify as follows:

1. That CAROLYN CUMMINGS, the witness whose
testimony is herein before set forth was duly recorded
and transcribed by me;

2. That such deposition is a true record of
the testimony given by said witness to the best of my
knowledge, skill and ability.

3. I further certify that I am neither
attorney or counsel for, nor related to or employed
by, any of the parties, and further that I am not a
relative or employee of any attorney or counsel
employed by the parties hereto or financially
interested in this matter;

IN WITNESS WHEREOF, I hereunto set my hand and
notarial seal this 2nd day of October, 2005.

ORIGINAL SIGNED BY
PAULA E HOGAN

PAULA E. HOGAN, CSR, RPR
Notary Public
My Commission Expires:
October 4, 2007

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JOHN KNIGHT, et al.,
Plaintiffs,

vs.

04-12698-JLT

CHRISTMAS TREE SHOPS, INC.,
Defendant.

TESTIMONY OF GREGORY BILEZIKIAN, called as a witness by and on behalf of the Plaintiffs, taken pursuant to the Federal Rules of Civil Procedure, before Paula E. Hogan, CSR, RPR, Notary Public in and for the Commonwealth of Massachusetts, taken at Ramada Regency Hotel, 1127 Route 132, Hyannis, MA, on Tuesday, November 8, 2005, commencing at 10:03 a.m.

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FOR BED BATH & BEYOND

ALSO PRESENT:

JOHN FRANCIS KNIGHT
DONNA RUSSELL KNIGHT

1 Q. Do you know that that product came from
2 The Glass Eye or not?

3 A. I'm not aware of where this sample came
4 from.

5 Q. Do you know who produced that sample?

6 A. No.

7 Q. Did Christmas Tree Shops have that
8 manufactured?

9 A. No.

10 Q. I'll show you Plaintiffs' Exhibit 6. Tell
11 me if you recognize this one.

12 A. This I recognize.

13 Q. What is that?

14 A. It's a wall vase.

15 Q. And did you order that?

16 A. I did not.

17 Q. Did someone under your supervision order
18 that?

19 A. It's possible.

20 Q. Could you compare Plaintiffs' Exhibit
21 number 5 and Plaintiffs' Exhibit number 6 and tell me
22 first the similarities.

23 A. The similarities? They're similar in size
24 and shape.

1 Q. Are they similar in materials?

2 A. No. Similar, but not the same.

3 Q. What's different?

4 A. The product on the outside of this is a
5 much better piece of lead, the soldering and the way
6 it's built is much superior.

7 Q. Which one is superior?

8 A. Whatever this is.

9 MR. BIAGETTI: Number 5.

10 A. Number 5. Sorry. There's no -- it's
11 nicely seamed. This is a nice piece of hand forged,
12 it's got a finish on it. It's got a nice bead here at
13 the bottom. The glass is nice quality glass.

14 Q. Do you know what that glass is called?

15 A. No. Well, no. I don't know if it has a
16 name.

17 Q. Are there any other differences between
18 the two?

19 A. Yeah. This has a huge seam in it. It's
20 coming apart.

21 MR. BIAGETTI: Sorry, what number?

22 A. Number 6 has a big seam that is coming
23 apart.

24 Q. And number 6 is your product, is that

1 correct?

2 A. Number 6 is Christmas Tree Shops, made in
3 China, \$1.99. This is, you know, poor quality lead,
4 it's not nice material.

5 Q. Is it lead at all?

6 A. I don't know what it is, to be honest with
7 you. That's not fair. I don't know what it is. The
8 metal, I should probably call it metal, the metal is
9 very soft. It's not of good quality. It's not made
10 well.

11 Q. So, you're testifying that the Christmas
12 Tree Shops product is inferior in quality to --

13 A. To number 5.

14 Q. -- to number 5?

15 A. It's inferior, it's not made the same. It
16 looks different. This edge is different. This has a
17 hanger. The weight is different. It's a different
18 product.

19 MR. BIAGETTI: Have you finished your
20 answer on the differences that you see between the
21 two?

22 A. Physically, yes.

23 Q. Are there any other differences besides
24 the physical differences?

1 A. Yeah. The person that's going to shop for
2 this product or this product is going to be completely
3 different. This is -- a sophisticated person has to
4 understand what they're looking at. This was made for
5 a specialty store. This is made for a very limited
6 market. This is made for mass, you know, for \$1.99;
7 different person altogether.

8 Q. Is the scone or vase that's marked
9 Plaintiffs' Exhibit 6 a copy of Plaintiffs' Exhibit
10 number 5?

11 A. No.

12 MR. BIAGETTI: Objection.

13 Q. If it's not a copy -- well, let me ask you
14 this. Do they both have three pieces of glass?

15 A. Yes.

16 Q. Are those three pieces of glass, are each
17 of the three the same shape?

18 A. No.

19 Q. Are there two different pieces?

20 A. They're not the same shape.

21 Q. How are they different?

22 A. (No oral response.)

23 Q. Tell me.

24 A. Okay. This particular shape is different.

1 If you look at the way they're cut, I'm sure they're
2 cut completely different.

3 Q. Let me take a look. Looking at the back,
4 I have, we'll call it a cone shaped piece, it looks
5 like an ice cream cone, is that correct?

6 A. Those are your words.

7 Q. Well, why don't you give me your words.
8 What would you call that shape of the back piece?

9 A. Triangle, it's a rounded top triangle.

10 Q. If you put those two together -- you can
11 put them together, I'd like you to put them together.
12 I'd like you to tell me if they're the same size and
13 shape or not.

14 A. Difficult to tell without taking this
15 metal off if they're the exact same size. They're
16 similar.

17 Q. And the other two pieces of glass, the two
18 side pieces, are they the same shape in exhibits
19 number 5 and 6?

20 A. No.

21 Q. How are they different?

22 A. The curve is different here.

23 Q. Explain to me how the curve is different.

24 A. You could see here, this is a much

1 different shape, starting low and coming high. And
2 this is not the same, it's a much different slope.

3 Q. Well, when I put them next to each other,
4 although they may not be identical, they're similar in
5 size and shape. Why don't you put them next to each
6 other and tell me how they're different.

7 MR. BIAGETTI: Well, I think what he
8 wants to know is whether when you put them next to
9 each other, your answer would be different.

10 Q. Are they substantially similar, those two
11 items?

12 MR. BIAGETTI: Objection.

13 Q. You can answer. Why don't we do it this
14 way. Why don't you tell me what percentage they're
15 the same. Is it a hundred percent the same or 90
16 percent the same or 50 percent the same? You give me
17 a percentage.

18 MR. BIAGETTI: Objection. If you can
19 assign a percentage, you can answer.

20 A. I cannot assign a percentage.

21 Q. All right. You stated before that you
22 told vendors not to copy, is that correct?

23 A. I'd have to go back and read exactly what
24 I said.

1 couldn't tell the difference.

2 A. This one, if you ask me sitting side by
3 side can I tell, yes. Could I tell whether they were
4 the ones as you explained to me before, I find them to
5 be different.

6 Q. And how are there different?

7 A. This is thicker, darker, rounder. This is
8 number 8.

9 Q. And how are they similar?

10 A. They have a basket and a box.

11 MR. BIAGETTI: And did you finish your
12 answer on how they were different?

13 A. No. This is a leather hanger. This has
14 got some kind of a mark in it. I don't know what it
15 is.

16 Q. Directing your attention to the pattern on
17 the two pieces of glass that you almost broke, could
18 you tell any differences between the two patterns?

19 A. Yeah.

20 Q. What are those differences?

21 A. Number 8 has a deeper emboss, the berries
22 are much more vivid. The leaves are more vivid.

23 Q. Which one is more vivid, 7 or 8?

24 A. 8, number 8.

1 MR. BIAGETTI: Have you finished your
2 answer on the way that image is different?

3 THE WITNESS: Yes.

4 Q. Could you tell me if exhibit 8 is a copy
5 of exhibit 7?

6 A. No, I couldn't tell you if they're a copy.

7 Q. Well, why can't you tell me?

8 A. Because I don't know if it's a copy or
9 not.

10 Q. If you put it right next to each other,
11 can you compare it?

12 A. I can't say that it's a copy.

13 Q. Okay. Were you involved with ordering
14 Plaintiffs' Exhibit number 8?

15 A. I do not recall.

16 Q. Do you know of any person's name who was
17 involved with buying it?

18 A. No.

19 Q. Did you see that particular sun catcher at
20 The Glass Eye?

21 A. I do not recall.

22 Q. Do you know that copying copyrighted
23 products is a federal criminal offense?

24 A. I don't know.

1 A. Similar.

2 Q. Is the type face of the Frosty Snow Cones
3 similar, the font?

4 A. Remotely similar.

5 Q. Explain what you mean by remotely similar.

6 A. This is lots of shading. Excuse me.

7 Exhibit 2 has lots of shading. It's very consistent
8 in terms of word to word. Depth of which they're done
9 is significantly different.

10 Q. Apart from the shading within the letters,
11 are the sizes and shapes of the letters the same?

12 A. No, they're not the same.

13 Q. Are they substantially similar?

14 MR. BIAGETTI: Objection.

15 Q. Are you thinking?

16 A. No.

17 Q. So, I asked you are they, are the shapes
18 of the letters substantially similar?

19 MR. BIAGETTI: Objection. You may
20 answer.

21 A. I don't think they're the same.

22 Q. On exhibit number 2, do you see the Made
23 in China sticker on it?

24 A. Yes.

1 Q. Is that sticker permanent and indelible?

2 A. No.

3 MR. BIAGETTI: Before we go much
4 further, did you finish your answer with regard to the
5 differences between the two exhibits?

6 A. Besides the thickness of the wood, the
7 quality of the wood is completely different. And the
8 other product is not the same at all.

9 Q. Looking at exhibits 2 and 3 again, the
10 shape, the large shape where the snowman is, is that
11 the same on the two products?

12 A. I'm not sure what you mean.

13 Q. The egg shape?

14 A. No.

15 Q. How are they different?

16 A. They're different.

17 MR. BIAGETTI: He asked you how
18 they're different.

19 A. The shape is different.

20 Q. How is the shape different?

21 A. This is much more of an oval, this is more
22 of a medallion. The placement is completely
23 different.

24 Q. How is the placement completely different?

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

Re: Knight, et al. V. CHRISTMAS TREE SHOPS, INC.

I, PAULA E. HOGAN, CSR, RPR, Notary Public in and for the Commonwealth of Massachusetts, do hereby certify as follows:

1. That GREG BILEZIKIAN, the witness whose testimony is herein before set forth was duly recorded and transcribed by me;

2. That such deposition is a true record of the testimony given by said witness to the best of my knowledge, skill and ability.

3. I further certify that I am neither attorney or counsel for, nor related to or employed by, any of the parties, and further that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in this matter;

IN WITNESS WHEREOF, I hereunto set my hand and notarial seal this 18th day of November, 2005.

PAULA E. HOGAN, CSR, RPR
Notary Public
My Commission Expires:
October 4, 2007

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JOHN KNIGHT, et al.,
Plaintiffs,

vs.

04-12698-JLT

CHRISTMAS TREE SHOPS, INC.,
Defendant.

TESTIMONY OF JANICE LALIBERTE, called as a witness by
and on behalf of the Plaintiffs, taken pursuant to the
Federal Rules of Civil Procedure, before Paula E.
Hogan, CSR, RPR, Notary Public in and for the
Commonwealth of Massachusetts, taken at Ramada Regency
Hotel, 1127 Route 132, Hyannis, MA, on Tuesday,
November 8, 2005, commencing at 2:10 p.m.

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FOR BED BATH & BEYOND

ALSO PRESENT:

JOHN FRANCIS KNIGHT
DONNA RUSSELL KNIGHT

1 A. Dinnerware, glass, crystal and ceramic
2 gift.

3 Q. Have you had different categories of
4 buying?

5 A. Yes.

6 Q. Have you ever purchased candles?

7 A. Yes.

8 Q. Let's start with this one here.

9 A. The candle?

10 Q. The candle is marked Plaintiffs' Exhibit
11 number 10. Do you recognize that?

12 A. Yes. It has our ticket on it, Christmas
13 Tree Shops.

14 Q. Besides the ticket, do you remember
15 purchasing that product?

16 A. Yes.

17 Q. And who did you purchase it from?

18 A. It was a factory in China.

19 Q. And the name of the factory?

20 A. Prudential.

21 Q. Just like the insurance company in Boston?

22 A. Yes.

23 Q. And do you remember how many different
24 types of candles of that type that you ordered?

1 A. 31.

2 Q. 31. I'm sorry. Do you recognize that
3 candle?

4 A. No.

5 Q. Here is Plaintiffs' Exhibit 28. Do you
6 recognize that?

7 A. No, I don't.

8 Q. Here's Plaintiffs' Exhibit 30. Do you
9 recognize that candle?

10 A. No, I don't.

11 Q. How did you come to order the three
12 different candles that you described, It's a Girl,
13 It's a Boy and Happy Birthday?

14 A. Well, to the best of my recollection, we
15 are very successful with anything that is Happy
16 Birthday related. At the time I was a candle buyer, I
17 thought we would take that theme and carry it through
18 to candles.

19 We are also very successful with anything
20 that is baby related. So, that's where the idea came
21 from; based on themes that we are successful with.

22 Q. And you stated, I showed you three or four
23 candles from a company called Aunt Sadie's. Are you
24 familiar with the company Aunt Sadie's Candles?

1 similar?

2 A. Well, it's hard to see, this one is
3 covered. They are the same color; different finish
4 but the same color.

5 Q. And the text on the covers, is the text
6 similar?

7 A. They both say the same thing.

8 Q. Which is?

9 A. It's a Boy.

10 Q. And you never saw the Aunt Sadie's version
11 of that before, is that correct?

12 A. That is correct.

13 Q. And do they have the same aroma? Can you
14 open them up and take a sniff?

15 A. No.

16 Q. Are they different?

17 A. Yes.

18 Q. And could you describe the two aromas?

19 A. This is number 28, exhibit 28, very highly
20 fragranced. Exhibit number 10, no fragrance.

21 Q. No fragrance at all?

22 A. I don't smell anything.

23 Q. Was anyone else involved in the buying
24 decision concerning that candle, that It's a Boy

1 candle?

2 A. No.

3 Q. No one told you to buy this candle?

4 A. Oh, no.

5 Q. So, how did you decide what size the can
6 would be?

7 A. The decision was actually made by the
8 factory presenting to me what was available.

9 Q. Okay. I'll show you a document marked
10 exhibit 41. Tell me if you recognize it.

11 A. I recognize it.

12 Q. And when did you first see that document?

13 A. Sometime during the year 2005.

14 Q. And you never saw it before then?

15 A. About 2005. No, I have no recollection of
16 ever seeing it before that.

17 Q. Do you know if that is a new document? In
18 other words, one prepared during 2005?

19 A. I wouldn't know when it was prepared.

20 Q. Okay. But you had been working, as you
21 testified, for eight years for the company?

22 A. Correct.

23 Q. Wouldn't you have seen it if that was the
24 standard intellectual property policy?

1 MR. BIAGETTI: Objection. If you saw
2 it you may say so.

3 Q. When you ordered the candle, exhibit 10,
4 did you give the supplier a copy of that document, the
5 intellectual policy, exhibit number 41?

6 A. I don't actually apply this document
7 myself. We have a person who is in charge of sending
8 samples out. It is at that time that this would be
9 applied to the sample. So, that's not something that
10 I would do.

11 Q. Okay. So, this document, exhibit 41,
12 would be supplied to some sample that you want the
13 company in China or someplace else to make something
14 similar to, is that correct?

15 A. No. It's actually applied to an item
16 where, that we're going to manufacture. And this is
17 the tag that's attached.

18 Q. What was done, if you know, concerning
19 ordering that candle, exhibit number 10? What was
20 sent to the supplier in China?

21 A. Art work.

22 Q. Anything else?

23 A. Photographs possibly of the samples they
24 had sent to me. That could be. But again, this was a

1 while back.

2 Q. How long ago was it?

3 A. I don't even remember when the order was
4 actually written. I haven't bought candles since
5 June, so it was sometime way before that. So, I'm not
6 quite sure when the order was written.

7 Q. So, these candles were supplied sometime
8 in 2005, is that correct?

9 A. Yes.

10 Q. Are you still receiving candles or has
11 that product run its course?

12 A. I don't understand the question. I'm
13 sorry.

14 Q. Are you still selling these candles in
15 Christmas Tree Shops?

16 A. I don't know. As I said, I haven't had
17 this category since June 1st. So, I really don't know
18 the disposition at this point. I don't know if
19 they're still in stock.

20 Q. What is your category now?

21 A. Dinnerware, glass and ceramic gift.

22 Q. Now, glass would include something like
23 Plaintiffs' Exhibit number 8? Do you recognize that?

24 A. No, I don't. I don't recognize it.

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

Re: KNIGHT, et al. V. CHRISTMAS TREE SHOPS

I, PAULA E. HOGAN, CSR, RPR, Notary Public in and for the Commonwealth of Massachusetts, do hereby certify as follows:

1. That JANICE LALIBERTE, the witness whose testimony is herein before set forth was duly recorded and transcribed by me;

2. That such deposition is a true record of the testimony given by said witness to the best of my knowledge, skill and ability.

3. I further certify that I am neither attorney or counsel for, nor related to or employed by, any of the parties, and further that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in this matter;

IN WITNESS WHEREOF, I hereunto set my hand and notarial seal this November 15, 2005.

ORIGINAL SIGNED BY
PAULA E HOGAN

PAULA E. HOGAN, CSR, RPR
Notary Public
My Commission Expires:
October 4, 2007

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JOHN KNIGHT, et al.,
Plaintiffs,

vs.

04-12698-JLT

CHRISTMAS TREE SHOPS, INC.,
Defendant.

TESTIMONY OF DEBORAH WATTS, called as a witness
by and on behalf of the Plaintiffs, taken pursuant to
the Federal Rules of Civil Procedure, before Paula E.
Hogan, CSR, RPR, Notary Public in and for the
Commonwealth of Massachusetts, taken at Ramada Regency
Hotel, 1127 Route 132, Hyannis, MA, on Tuesday,
November 8, 2005, commencing at 1:03 p.m.

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ALSO PRESENT:

JOHN FRANCIS KNIGHT
DONNA RUSSELL KNIGHT

1 Q. Okay. I'm going to show you exhibit
2 number 2. Have you ever seen that before?

3 A. No.

4 Q. I show you a document marked Plaintiffs'
5 Exhibit 3. Do you recognize that?

6 A. Yes. This is one of the designs of the
7 assortment.

8 Q. And that's referenced on CTS0305?

9 A. Actually no, it's not. Because this one
10 says fall, so that would be referring to a fall
11 design. This would be a Christmas design.

12 Q. Did you purchase the product that's in
13 your hands right now, exhibit 2?

14 A. Yes, I did.

15 Q. And who did you order it from?

16 A. From a factory in China.

17 Q. And what's the name of it?

18 A. Do you want the trader name?

19 Q. The actual name of the company and any
20 other name that it goes by.

21 A. Okay. The trading agent's name is Jack-
22 Tom Industrial.

23 Q. And how did you order this particular
24 item?

1 A. We were in the factory and we were walking
2 around. And I picked the fall design and Christmas
3 design off the shelf. I picked this item off the
4 shelf.

5 Q. So, Jack-Tom was already making this
6 product for someone else?

7 A. The factory, Fanrong 2 is the factory
8 name. And it was in their showroom.

9 Q. Could you spell that for me?

10 A. Okay. F-a-n-r-o-n-g.

11 Q. Fanrong?

12 A. Fanrong number 2.

13 Q. Do you know what that name means?

14 A. I don't, I'm sorry.

15 Q. Okay. Did you visit the factory?

16 A. Uh-huh.

17 Q. And where is the factory?

18 A. It's in a place called Huang Yan.

19 Q. Could you spell that?

20 A. Yes. H-u-a-n-g Y-a-n.

21 Q. And what province is that in, do you know?

22 A. I don't know. I'm sorry.

23 Q. How did you fly there?

24 A. I don't know where I flew from. But we

1 Q. Okay.

2 MR. BIAGETTI: So, just for my
3 clarification, 3600 pieces means 1200 sets of three?

4 THE WITNESS: 1200 pieces of each
5 design. So, there's three designs, 1200, 1200, 1200
6 for 36.

7 MR. JOSEPH: Got it. Thank you.

8 Q. I show you a document that's marked
9 Plaintiffs' Exhibit 41.

10 (Whereupon, the document referred to
11 by counsel was duly marked for
12 identification as Exhibit #41.)

13 BY MR. JOSEPH:

14 Q. Could you tell me if you've ever seen that
15 document before?

16 A. Yes, I've seen this before.

17 Q. And when did you see it?

18 A. I don't remember.

19 Q. What is that document used for?

20 A. This is -- we use this with our vendors so
21 that we do not -- we don't want to infringe on
22 anybody's patents, copyrights, et cetera.

23 Q. Would you use that for every order that
24 you purchase?

1 A. Would I use this on every order that I
2 purchase?

3 MR. BIAGETTI: You.

4 Q. Yes.

5 MR. BIAGETTI: From now into the
6 future?

7 Q. No, have you used it for every order that
8 you purchased?

9 A. This?

10 Q. That document, yes.

11 MR. BIAGETTI: In her entire career at
12 Christmas Tree Shops?

13 MR. JOSEPH: Yes.

14 A. No.

15 Q. For what period of time have you used it?

16 A. I can't tell you. I don't remember.

17 Q. Did you use that document when you ordered
18 the winter sign, the Frosty Snow Cone?

19 A. No. I did not.

20 Q. How do you know that?

21 A. Because when I went into the factory, I
22 picked this off the shelf. It was a ready made
23 product.

24 Q. But wouldn't Christmas Tree Shops want a

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

Re: KNIGHT, et al. V. Christmas Tree Shops

I, PAULA E. HOGAN, CSR, RPR, Notary Public in and for the Commonwealth of Massachusetts, do hereby certify as follows:

1. That DEBORAH J. WATTS, the witness whose testimony is herein before set forth was duly recorded and transcribed by me;

2. That such deposition is a true record of the testimony given by said witness to the best of my knowledge, skill and ability.

3. I further certify that I am neither attorney or counsel for, nor related to or employed by, any of the parties, and further that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in this matter;

IN WITNESS WHEREOF, I hereunto set my hand and notarial seal this 15th day of November, 2005.

ORIGINAL SIGNED BY
PAULA E HOGAN

PAULA E. HOGAN, CSR, RPR
Notary Public
My Commission Expires:
October 4, 2007

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John F. Knight

11/09/2005

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VOL. I, PAGES 1 - 101

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JOHN KNIGHT, DONNA RUSSELL KNIGHT,
CHARLES COLE, VIIU NIILER, COUNTRY GLASS
SHOP, AUNT SADIE'S, INC., AND SUSAN BOERMAN

Plaintiffs

V.

CHRISTMAS TREE SHOPS, INC.

**CERTIFIED ORIGINAL
LEGALINK BOSTON**

Defendant

- - - - -

30(b)(6) Notice to The Glass Eye Gallery

Deposition of John F. Knight

Wednesday, November 9, 2005

11:00 a.m.

Mintz Levin Cohn Ferris Glovsky and Popeo, PC

One Financial Center

Boston, Massachusetts

- - - - -

Reporter: Deborah Roth, RPR/CSR

John F. Knight

11/09/2005

2

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617 542 6000

For the Defendant

ALSO PRESENT: Kenneth Bradley, Esq.

Donna Knight

John F. Knight

11/09/2005

6

:02:51 1 direct your attention to the second paragraph.

11:02:52 2 It says that, "The Glass Eye Gallery is
11:02:56 3 obligated to designate one or more officers,
11:02:58 4 directors or other persons who consent to testify
11:03:02 5 on its behalf concerning the subject matter set
11:03:06 6 forth in the attached exhibit."

11:03:09 7 It says that, "We have requested Glass
11:03:13 8 Eye produce the individual or individuals most
11:03:15 9 qualified to testify in the matters set forth in
11:03:18 10 the exhibit."

11:03:19 11 Now, you have never seen the exhibit
11:03:20 12 before, correct?

03:21 13 A. No.

11:03:21 14 Q. Take a look at it now, please, and tell me
11:03:24 15 whether you are indeed the person most qualified to
11:03:29 16 testify on the subjects that are set forth in it.

11:04:03 17 A. Yes, I am.

11:04:03 18 Q. And what is your position at Glass Eye
11:04:07 19 Gallery?

11:04:07 20 A. I am co-owner of the Glass Eye Gallery and
11:04:14 21 its condominium unit with my wife, Donna.

11:04:18 22 Q. What's Donna's full name?

11:04:20 23 A. Donna Russell Knight.

11:04:24 24 Q. No other owners other than you and Donna?

John F. Knight

11/09/2005

7

04:33 1 A. At the current time, the business is in my
11:04:35 2 name individually as the owner.

11:04:39 3 Q. But no one else has an ownership interest
11:04:42 4 in the gallery?

11:04:43 5 A. No.

11:04:43 6 Q. And you said gallery and condominium?

11:04:45 7 A. The building is in both of our names.

11:04:49 8 Q. Is the building that houses the gallery
11:04:56 9 also owned by you?

11:04:57 10 A. Yes.

11:04:57 11 Q. Any other tenant stores? Anybody else who
11:05:00 12 lives or does business in that building?

11:05:01 13 A. No.

11:05:02 14 Q. And is it a freestanding building?

11:05:07 15 A. Yes.

11:05:07 16 Q. Can you describe it?

11:05:08 17 A. It is a two-story, aboveground, with a
11:05:13 18 basement, lower level, with my studio of
11:05:16 19 approximately 1,000 square feet.

11:05:20 20 The gallery is on the street level,
11:05:23 21 with a ramp leading to the front door and is
11:05:28 22 approximately 1,000 square feet and encompasses a
11:05:32 23 small kitchenette and half bath.

11:05:36 24 The second floor is approximately 650

John F. Knight

11/09/2005

8

05:41 1 square feet and that is used for storage and has a
11:05:46 2 small office space.

11:05:49 3 Q. The street level floor, you said, includes
11:05:54 4 the gallery and then the bath and a kitchen?

11:05:57 5 A. Yes.

11:05:58 6 Q. Approximately how many selling, square feet
11:06:01 7 of selling space does the gallery have?

11:06:01 8 A. The gallery would have approximately 950
11:06:04 9 square feet -- between that and a thousand --
11:06:07 10 because the kitchen and bath are -- jet out -- are
11:06:11 11 an add-on to the building.

11:06:13 12 Q. And is the building itself in a business
11:06:20 13 area? Residential area? How would you describe
11:06:23 14 it?

11:06:23 15 A. It is in a commercial zone in Eastham. It
11:06:27 16 is the original building in what is now a business
11:06:31 17 complex.

11:06:32 18 Q. When you say "original building," about how
11:06:34 19 old is it, do you know?

11:06:35 20 A. The original building, the one we are in,
11:06:41 21 originally was two houses down by the beach,
11:06:43 22 probably as much as 60 years ago.

11:06:47 23 They were brought up and joined
11:06:48 24 together and became a combination antique

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:06:52 1 shop/residence.

11:06:53 2 Q. So the structure is about 60 years old?

11:06:56 3 A. Correct.

11:06:57 4 Q. How would you describe the look of it? Is
11:06:59 5 it Victorian. What is it? Colonial?

11:07:03 6 A. Cape-Cod looking.

11:07:05 7 Q. Cottage?

11:07:07 8 A. Cape Cod house. It's too big for a
11:07:10 9 cottage.

11:07:11 10 Q. And this business complex that is a part of
11:07:16 11 it, could you describe that strip mall?

11:07:20 12 A. If you are standing in the street, you will
11:07:23 13 look directly at the front of our building.

11:07:27 14 Behind our building, there is what is
11:07:29 15 referred to as Building B, which is approximately
11:07:33 16 40 feet from front to back and 160 feet long.

11:07:39 17 Then there is a driveway between that
11:07:42 18 building and the next set of buildings, which are
11:07:46 19 referred to as Building C, which extends back and
11:07:52 20 then makes a 45-degree turn to the right.

11:07:56 21 Then there is another driveway.
11:07:57 22 Building D has just -- part of it has just changed
11:08:03 23 hands and is now a law firm and a restaurant.

11:08:06 24 Q. So Building D is a law firm and restaurant?

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:09:37 1 Did you produce some documents to

11:09:39 2 Mr. Joseph in response at least to some of the
11:09:42 3 descriptions that are listed here?

11:09:44 4 A. Yes.

11:09:45 5 Q. And just very briefly, how did you go about
11:09:47 6 pulling those documents together for Mr. Joseph?

11:09:50 7 A. The ones that he requested, anything with
11:09:57 8 figures came from my ledgers, my bookkeeping.

11:10:04 9 The design came from the drawing of my
11:10:07 10 wife's original design work.

11:10:09 11 The literature attesting to our
11:10:16 12 reputation, those are copies of awards from Cape
10:21 13 Cod Life Magazine, The Buyers Marketplace. The --
11:10:28 14 I believe there was one from the Cape Cod Times.
11:10:32 15 One from the Cape Codder. Various publications.

11:10:36 16 Q. You mentioned one document that you said
11:10:38 17 was the design, and I think you said that it was
11:10:40 18 from your wife; is that right?

11:10:42 19 A. Yeah.

11:10:43 20 Q. Let me show you a document, before we mark
11:10:46 21 it, that's been previously produced and marked
11:10:49 22 GE 001. Is that the design you are talking about?

11:10:52 23 A. Yes.

11:10:54 24 Q. Who drew that?

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:10:55 1 A. My wife, Donna.

11:10:57 2 Q. Was she involved in the design of the wall
11:11:02 3 sconces that we are going to be talking about
11:11:04 4 today?

11:11:04 5 A. Basically, in the modifications of it,
11:11:07 6 because, from the original, it was changed, until
11:11:11 7 we came up with this design (indicating), and more
11:11:15 8 than likely, yes, she designed the curve on the
11:11:19 9 top, most likely, and the backing on it.

11:11:24 10 Q. Putting aside her participation on that,
11:11:28 11 are you still comfortable to talk about the
11:11:31 12 development of the product itself?

11:11:32 13 A. Yes.

11:11:35 14 Q. Now, you also mentioned that any figures in
11:11:39 15 what was produced were prepared by you; is that
11:11:42 16 correct?

11:11:42 17 A. Yes.

11:11:43 18 Q. And you gave me a document this morning,
11:11:45 19 which I have blown up, which we have marked as
11:11:47 20 Exhibit 2.

11:11:48 21 Take a quick look at that and tell me
11:11:50 22 if you recognize that as the paper full of figures
11:11:52 23 you gave me today.

11:11:53 24 A. Yes.

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11:54 1 Q. It is?

11:11:54 2 A. Yes, it is.

11:11:55 3 Q. And what, sir, does that represent?

11:11:59 4 A. The column of "Gross" shows what our gross
11:12:04 5 sales in the gallery and the studio were in the
11:12:07 6 years 2001, '2, '3, and '4.

11:12:11 7 Under the column of "Glass" are the
11:12:15 8 sales from just the items produced in my studio,
11:12:19 9 which are the listed under glass; and those are for
11:12:21 10 the years 2001, '2, '3, '4, and '5.

11:12:29 11 Q. When you say for the items in your studio,
11:12:33 12 you mean that, obviously, as some subset of the
11:12:36 13 items that you sell at the gallery?

11:12:38 14 A. Yes.

11:12:38 15 Q. In what way?

11:12:40 16 A. The categories that we have on our
11:12:43 17 register -- which is not an extensive machine --
11:12:47 18 there's one that records the sales of all glass
11:12:51 19 items produced at the Glass Eye stained glass
11:12:57 20 studio.

11:12:58 21 There is a key that brings in the
11:13:00 22 figures from all of the blown glass items from as
11:13:04 23 many as 16 different glass blowers.

11:13:05 24 There is a key for pottery that brings

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:13:06 1 in the figures of sales of all the pottery in the
11:13:08 2 shop. One for miscellaneous. One for fused glass.
11:13:17 3 The card key, we changed over to miscellaneous.

11:13:21 4 Q. I think what you are telling me, the
11:13:23 5 figures that you have got under "Glass" here are
11:13:26 6 the most precise numbers you can put on sales of
11:13:31 7 items that would have included the sconces that we
11:13:35 8 are talking about today?

11:13:36 9 A. Correct.

11:13:36 10 Q. For the record, that sconce has been
11:13:39 11 previously marked in depositions that Mr. Joseph
11:13:42 12 did as Plaintiffs' Exhibit 5.

13:43 13 A. Correct.

11:13:44 14 Q. I brought it today.

11:13:46 15 That's the sconce that you created that
11:13:48 16 we are going to be talking about today, correct?

11:13:50 17 A. Correct.

11:13:53 18 Q. Can you tell me how many other items for --
11:13:59 19 let's start with 2002 -- would be in that glass
11:14:04 20 sales figure of just over \$38,000?

11:14:11 21 A. I can give you a general overview, which
11:14:13 22 would be some candle holders, some stained glass
11:14:18 23 boxes, lamps, small panels, mirrors, a variety of
11:14:29 24 both decorative and functional items.

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:15:37 1 were seven, eight, nine hundred of one item, but
11:15:40 2 there were not a hundred different items.

11:15:42 3 Q. You just give me the best estimate you
11:15:46 4 can -- if you can give me one -- how many types of
11:15:50 5 items are represented by that \$38,000 in sales?

11:15:54 6 A. I would estimate probably 16.

11:16:10 7 Q. One of which is the sconce at issue?

11:16:14 8 A. Correct. If I might clarify that further,
11:16:18 9 for example, included in that 16 items is a candle
11:16:23 10 holder, but I do various sizes of -- the candle.
11:16:30 11 holder is one item.

11:16:31 12 Q. Got it. Across the 16 types of items, how
11:16:37 13 many actual objects are represented by that
11:16:41 14 \$38,000, ballpark?

11:16:42 15 A. No way to estimate.

11:16:44 16 Q. Is there any way to estimate how many
11:16:48 17 sconces are represented in that \$38,000?

11:16:51 18 A. Yes. I would estimate that approximately
11:17:00 19 40 percent of the dollar figure was done in
11:17:04 20 sconces, and that's my best estimate.

11:17:10 21 Q. When you say "done in sconces," does that
11:17:13 22 include any sconce beyond Exhibit 5?

11:17:16 23 A. Yes. In that we did make a larger one,
11:17:23 24 which we discontinued, with the popularity of the

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:17:28 1 size in question.

11:17:30 2 Q. So of the 40 percent of \$38,000, that was
11:17:35 3 done in sconces, right?

11:17:38 4 A. Right.

11:17:38 5 Q. Rough math. Let's call it \$16,000 worth,
11:17:42 6 okay?

11:17:43 7 A. Okay.

11:17:44 8 Q. How much of that roughly \$16,000 worth of
11:17:48 9 sales -- sconces in 2002 -- was the result of
11:17:54 10 sconces of the size of Exhibit 5?

11:17:56 11 A. I would estimate at least 90 percent.

11:18:01 12 Q. Thank you. And I understand that is only
18:04 13 an estimate.

11:18:17 14 The same question for the 2003, glass
11:18:22 15 sales, as best as you can recall, how many items?

11:18:27 16 A. Same response.

11:18:28 17 Q. About 16 types of items.

11:18:33 18 Would you again say 40 percent of
11:18:37 19 \$34,000 was done in sconces?

11:18:39 20 A. Yes.

11:18:40 21 Q. And would you again say that about 90
11:18:44 22 percent of that 40 percent was done in the sconce
11:18:48 23 in the size of Exhibit 5?

11:18:49 24 A. In the year 2003?

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:18:51 1

Q. Yes.

11:18:51 2

A. No.

11:18:53 3

Q. Go ahead. What would the percentage be in 2003?

11:18:55 4

11:18:56 5

A. In 2003, it would be almost negligible.

11:19:02 6

Q. Okay. Almost all of the 40 percent of the

11:19:07 7

\$34,000 was done in the scone of the size --

11:19:10 8

A. In 2003? No.

11:19:12 9

Q. The opposite?

11:19:14 10

A. Correct.

11:19:15 11

Q. What size --

11:19:16 12

A. We discontinued them all.

: 19:26 13

Q. Why did you discontinue the scone of the size of Exhibit 5?

11:19:29 14

11:19:30 15

A. Because I had a customer walk into the

11:19:34 16

gallery, a good customer, a long-time customer came

11:19:38 17

in and said, "I just saw your scone at the

11:19:43 18

Christmas Tree Shop in Orleans at \$1.99."

11:19:46 19

I said, "You are kidding."

11:19:47 20

That evening my evening manager came in

11:19:51 21

to work and said, "I just saw your scone at the

11:19:56 22

Christmas Tree Shop."

11:19:58 23

So I went down the next morning, and I

11:20:01 24

purchased the last ones that I could find on the

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:20:04 1 shelves.

11:20:09 2 Q. The customer who reported this to you, do
11:20:13 3 you remember who this was?

11:20:13 4 A. Linda Antinarelli.

11:20:19 5 Q. Where does she live?

11:20:21 6 A. In Orleans.

11:20:25 7 Q. Do you remember what time of year she came
11:20:27 8 in and told you?

11:20:27 9 A. It was in the early spring, possibly around
11:20:31 10 the beginning of May.

11:20:34 11 Q. Of two thousand and --

11:20:36 12 A. Three.

20:42 13 Q. And an evening manager made the same point
11:20:45 14 to you?

11:20:46 15 A. Yes.

11:20:46 16 Q. Who was that?

11:20:47 17 A. Eleanora Potts.

11:20:56 18 Q. Where does she live?

11:20:57 19 A. In Eastham.

11:20:59 20 And the following day my gallery
11:21:02 21 manager, on her way into work, stopped and verified
11:21:06 22 what I had been told.

11:21:10 23 Q. And the report from Ms. Potts came in in
11:21:13 24 early May 2003?

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:21:15 1 A. It came the same day.

11:21:19 2 Q. So seeing the Christmas Tree Shop sconce
11:21:25 3 was your sole reason for discontinuing your Exhibit
11:21:29 4 5 sconce?

11:21:30 5 A. Correct.

11:21:32 6 Q. And "discontinued" means you stopped making
11:21:36 7 it?

11:21:36 8 A. Yes.

11:21:36 9 Q. When did you stop making them?

11:21:38 10 A. We stopped making them that day.

11:21:42 11 Q. Did you sell the ones that you still had in
11:21:45 12 the store as of May 2003?

21:46 13 A. We had approximately 12, because we were
11:21:50 14 just at the beginning of our production season, and
11:21:53 15 most of those were put away and sold at our October
11:21:59 16 sale.

11:21:59 17 Q. The 12 in stock were sold in October?

11:22:04 18 A. Correct.

11:22:05 19 Q. Do you remember the price that you sold
11:22:07 20 those for?

11:22:08 21 A. They would have been at a 40 percent
11:22:11 22 discount.

11:22:12 23 Q. What was the original price of those?

11:22:14 24 A. \$32.95.

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11:22:27 1 Q. Prior to discontinuing the production of
11:22:33 2 the sconces, did you sell any of the sconces of the
11:22:36 3 size of Exhibit 5 from January through April 2003?

11:22:41 4 A. More than likely, yes.

11:22:44 5 Q. Can you give me a estimate of how many you
11:22:46 6 sold before May?

11:22:47 7 A. No.

11:22:47 8 Q. Was it more or less than 20?

11:22:50 9 A. I would estimate that, yes, 20 might be a
11:22:56 10 good figure, considering our traffic flow.

11:23:01 11 Q. You sold 20, approximately?

11:23:03 12 A. Yes.

11:23:03 13 Q. And you sold those for \$32.95?

11:23:13 14 A. Correct.

11:23:14 15 Q. Was \$32.95 the price of the sconces in 2002
11:23:19 16 as well?

11:23:20 17 A. In 2002, it may have been \$31.95.

11:23:26 18 Any time the price increases, it is
11:23:29 19 coordinated with increase in material, price, labor
11:23:32 20 cost.

11:23:33 21 Q. Did you have a Columbus sale in 2002 as
11:23:37 22 well?

11:23:37 23 A. Yes.

11:23:38 24 Q. And do you recall whether you sold any of

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11:30:31 1 have reported to you, any way, shape or form
11:30:35 2 regarding the sconce that was being sold at the
11:30:39 3 Christmas Tree Shop?

11:30:39 4 A. Verbally, yes.

11:30:41 5 Q. Okay. Can you take me through those
11:30:44 6 instances to the best you can recall them.

11:30:50 7 A. May I ask --

11:30:52 8 MR. JOSEPH: Do the best you can.

11:30:55 9 A. Repeat the question, please.

11:31:00 10 Q. I want you to tell me, as best you can,
11:31:02 11 recall any reports from any customer, colleague,
11:31:08 12 friend regarding the sconce that was being sold at
11:31:13 13 the Christmas Tree Shops.

11:31:15 14 A. Yes. I have heard from customers and
11:31:17 15 friends that they had seen it there. They
11:31:21 16 expressed being appalled at having seen a copy of
11:31:26 17 our work there, and the unfortunate damaging
11:31:34 18 question that occasionally arises was, did we sell
11:31:39 19 our sconces to the Christmas Tree Shop?

11:31:44 20 Q. Do you remember who any of these folks
11:32:00 21 were?

11:32:07 22 A. No. I recognize a lot of people that come
11:32:09 23 into our shop by sight. I recognize a lot by name;
11:32:16 24 i.e., I see deposits and checks come across my desk

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11:32:20 1 for 20 years, but I don't have a name and face.

11:32:23 2 Q. You do recall that they were customers of
11:32:26 3 the gallery?

11:32:27 4 A. Yes.

11:32:27 5 Q. Anyone else other than the two folks who
11:32:30 6 were the gallery manager and your evening manager
11:32:34 7 who were employees of the gallery who made mention
11:32:37 8 of this fact?

11:32:38 9 A. My studio assistant, Reed Martin, saw them
11:32:50 10 in the Christmas Tree Shop on Route 6A, the
11:32:54 11 original shop.

11:32:55 12 Q. What did Mr. Martin tell you about them?

11:32:58 13 A. This was months afterward, and he said, "I
11:33:03 14 saw them at the shop on 6A."

11:33:05 15 Q. And when he said he saw "them," what did HE
11:33:08 16 mean?

11:33:08 17 A. The sconce.

11:33:09 18 Q. Meaning the alleged copies by Christmas
11:33:12 19 Tree Shop?

11:33:12 20 A. The alleged copies.

11:33:13 21 Q. Did he identify them -- did he understand
11:33:15 22 that they were copies as opposed to your products?

11:33:17 23 A. Yes.

11:33:18 24 Q. Come back, first of all, to the people who

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:33:29 1 reported that they were appalled at having seen a
11:33:32 2 copy of your work. Let's focus on those folks
11:33:36 3 first.

11:33:36 4 Are any of them the same people who
11:33:40 5 then asked whether you were selling your scone to
11:33:43 6 Christmas Tree Shop?

11:33:43 7 A. No. They were discriminating enough not
11:33:47 8 to.

11:33:48 9 Q. Let's talk about the people who were
11:33:50 10 discriminating enough.

11:33:53 11 Order of magnitude, how many people
11:33:55 12 told you that they had discriminated between the
33:57 13 two?

11:33:57 14 A. I can't put a figure on that.

11:33:59 15 Q. How about as a percentage of the total
11:34:01 16 reports that you got? Half? Two-thirds?

11:34:03 17 A. I can't put a figure on that.

11:34:08 18 Q. You have absolutely no idea?

11:34:10 19 A. No.

11:34:10 20 Q. Was it more than ten people?

11:34:12 21 A. I don't know. I can't estimate.

11:34:20 22 Q. More than one?

11:34:21 23 A. Definitely more than one. I will even go
11:34:24 24 as far as to say more than two.

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11:34:26 1 Q. How were they able to, in your words,
11:34:31 2 discriminate between the Christmas Tree Shop
11:34:32 3 version and your version?

11:34:33 4 A. Because they are accustomed to buying only
11:34:36 5 quality handcrafts. When they were looking for a
11:34:39 6 gift, when they are looking for that type of item,
11:34:42 7 they look to us or comparable type galleries and
11:34:47 8 not the Christmas Tree Shop.

11:34:48 9 Q. So other the than the place in which the
11:34:51 10 sconce was located, was there any other way that
11:34:54 11 any of them told you that they could tell that it
11:34:56 12 was a copy and not your work?

11:34:58 13 A. Yes. I believe my customers are
11:35:02 14 discriminating enough to recognize my work.

11:35:05 15 Q. I believe you, but just so you understand
11:35:07 16 my question, I am trying to understand whether you
11:35:11 17 can recall what they said to you that led you to
11:35:15 18 believe that they had been able to discriminate
11:35:17 19 other than the place in which the sconce was
11:35:19 20 located.

11:35:20 21 A. No. No.

11:35:21 22 Q. Okay. We will call these customers the
11:35:37 23 discriminating customers.

11:35:39 24 Were most of them ones that you would

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:35:41 1 have called regular customers of the gallery?

11:35:45 2 A. Yes.

11:35:46 3 Q. Any that you recall that were not? In
11:35:48 4 other words, a face you've never seen before?

11:35:49 5 A. Quite possibly, yes.

11:35:54 6 Q. Let's switch now to the people whom you
11:35:57 7 mentioned asked in words to the effect, "Are you
11:36:00 8 selling your sconces to the Christmas Tree Shop?"

11:36:03 9 Order of magnitude, how many, for
11:36:07 10 example, are we talking about?

11:36:08 11 A. I would estimate probably as many as 20.

11:36:11 12 Q. How is it that you remember that it was 20
11:36:13 13 people who told you that, but you have absolutely
11:36:15 14 no idea how many people were appalled at having
11:36:18 15 seen a copy of your work at Christmas Tree Shop?

11:36:20 16 MR. JOSEPH: I object. He did have
11:36:22 17 some idea. He testified that he did have some
11:36:25 18 idea. He didn't have absolutely no idea.

11:36:29 19 MR. BIAGETTI: He only identified them
11:36:30 20 as more than one.

11:36:31 21 Q. But if you have a better idea than that,
11:36:34 22 tell me more.

11:36:34 23 MR. JOSEPH: He said at least two.

11:36:37 24 A. I did up it.

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11:36:38 1 Q. To two?

11:36:39 2 A. I said more than two.

11:36:40 3 Q. Do you have a better idea than at least
11:36:44 4 two?

11:36:44 5 A. Repeat the question.

11:36:46 6 Q. How many people in your estimation, in your
11:36:53 7 words, were able to discriminate between the
11:36:55 8 Christmas Tree Shop sconce and the Glass Eye
11:36:58 9 Gallery sconce?

11:36:58 10 A. Actual number, I can't.

11:37:00 11 Q. Range?

11:37:01 12 A. I can only say that my customers recognize
11:37:06 13 my work and realize that was not my work.

11:37:09 14 Q. I appreciate that. I am trying to find out
11:37:12 15 whether it was more or less than ten?

11:37:15 16 A. I can't give you an exact number.

11:37:18 17 Q. Can you give me a range?

11:37:19 18 A. No.

11:37:20 19 Q. So I was wrong. Instead of it being more
11:37:23 20 than one, your best estimate is that it was more
11:37:26 21 than two?

11:37:26 22 A. Yes.

11:37:40 23 Q. Now let's focus on what you said was
11:37:43 24 approximately 20 people who asked, in words or

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:38:44 1 Q. Did any of them tell you that they did buy
11:38:47 2 the Christmas Tree Shop sconce?

11:38:49 3 A. I had a woman come into my shop. I did not
11:38:57 4 get her name, and we have a copy of that sconce
11:39:02 5 pinned on the wall behind our counter.

11:39:05 6 Q. Which sconce?

11:39:06 7 A. The copy and --

11:39:08 8 Q. You have the Christmas Tree Shop sconce
11:39:10 9 pinned up on the wall of your shop?

11:39:12 10 A. Right.

11:39:14 11 She asked if she could purchase it. I
11:39:19 12 said, "No. That is there showing a copy of ours
11:39:21 13 that has been on sale at the Christmas Tree Shop."

11:39:24 14 She said, "I know. I used to purchase
11:39:26 15 yours here, until I found I could buy them for
11:39:31 16 \$1.99, and they don't have them anymore, and I want
11:39:35 17 one more, and I see that one. Can I buy it?"

11:39:39 18 As politely as I could, I told her,
11:39:40 19 "No, it was not for sale."

11:39:42 20 Q. Other than this particular one who came in
11:39:47 21 a couple of days ago, are there any others of the
11:39:50 22 20, if you can recall, who told you that they had
11:39:55 23 bought the Christmas Tree Shop version?

11:39:56 24 A. None told me they had bought it, to my best

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:40:00 1 recollection.

11:40:13 2 Q. And the woman who came in the other day and
11:40:16 3 said, "I used to buy them for a \$1.99 at Christmas
11:40:21 4 Tree Shop," when she said "them," did you
11:40:23 5 understand her to mean what she thought were the
11:40:26 6 Christmas-Tree-Shop-produced versions or actually
11:40:29 7 your creation?

11:40:30 8 A. The only one hanging on the board was the
11:40:36 9 Christmas Tree Shop version, and she pointed at it,
11:40:38 10 and I assumed that's what she meant.

11:40:40 11 Q. She meant when she was buying them at the
11:40:42 12 Christmas Tree Shop, the "them" was the Christmas
40:45 13 Tree Shop version?

11:40:45 14 A. Correct.

11:40:45 15 Q. Can I ask you why you are hanging the
11:40:48 16 Christmas Tree Shop version at your shop?

11:40:50 17 A. Because we had a copy of ours, a copy of
11:40:54 18 Christmas Tree Shop copy, and we had copies of
11:40:57 19 other items, another item in this case, showing
11:41:03 20 that we produce a quality item, and it was our
11:41:06 21 design, it was our creation.

11:41:09 22 The only place it should be available
11:41:11 23 is in our gallery, and we were showing that someone
11:41:14 24 took our design and had it manufactured and was

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:41:17 1 selling it.

11:41:21 2 Q. You are showing this somewhere that is
11:41:25 3 visible for all customers of the shop?

11:41:27 4 A. Yes.

11:41:27 5 Q. Where exactly is this, the Christmas Tree
11:41:31 6 Shop sconce, hanging in the shop?

11:41:32 7 A. Behind our sales counter.

11:41:35 8 Q. You said, I think, that your sconce is also
11:41:39 9 hanging there?

11:41:40 10 A. Yes.

11:41:40 11 Q. Are there other examples of Christmas Tree
11:41:45 12 Shop products that are hanging in this display?

41:48 13 A. Yes.

11:41:49 14 Q. What else?

11:41:50 15 A. A large Nantucket basket sun-catcher
11:41:57 16 produced by Country Glass.

11:41:58 17 Q. Do you have the Christmas Tree Shop plate
11:42:00 18 as well up?

11:42:01 19 A. Yes.

11:42:02 20 Q. Any other?

11:42:03 21 A. No.

11:42:05 22 Q. How long have you had that display, the
11:42:12 23 comparison of the sconces and the plates, up?

11:42:15 24 A. I am not exactly sure how long it's been

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:42:18 1 up.

11:42:18 2 Q. Earlier than 2005?

11:42:21 3 A. I'm not really sure. It might have been up
11:42:30 4 in 2004, but I am not positive.

11:42:33 5 Q. So certainly in 2005 and perhaps --

11:42:35 6 A. 2005, definitely.

11:42:37 7 Q. Okay. Any signage or cards with any
11:42:40 8 explanation up along with these products, or just
11:42:43 9 the products themselves?

11:42:45 10 A. Just labeling ours and the copies.

11:42:48 11 Q. How do you have the copy labeled?

11:42:50 12 A. "Produced by the Christmas Tree Shop."

42:53 13 Q. And the label for yours says, "produced
11:43:00 14 by"?

11:43:01 15 A. It just says, "The Glass Eye." It doesn't
11:43:06 16 need an explanation.

11:43:07 17 Q. Is it fair to say that the display invites
11:43:10 18 questions from customers?

11:43:12 19 A. Yes.

11:43:12 20 Q. That's its purpose?

11:43:13 21 A. Correct.

11:43:15 22 Q. When they ask questions about what that
11:43:18 23 display is, what do you tell them?

11:43:20 24 A. We get into a discussion, and I tell them

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11:43:31 1 my belief I don't see anything wrong with someone
11:43:35 2 taking their own idea to have it manufactured
11:43:38 3 wherever they want to, but I feel it is a gross
11:43:41 4 injustice for someone to take someone else's design
11:43:44 5 and have it manufactured and marketed.

11:43:47 6 Q. Do you worry at all that having that
11:43:51 7 display up will confuse customers in the future
11:43:55 8 that might go to the Christmas Tree Shop or just
11:43:57 9 the opposite?

11:43:58 10 A. No.

11:43:58 11 Q. Just the opposite?

11:43:59 12 A. Everyone goes to the Christmas Tree Shop.

11:44:02 13 Q. I am talking about in terms of confusing
11:44:05 14 the two sconces.

11:44:06 15 A. There will be no confusion, because they
11:44:09 16 don't exist anymore.

11:44:10 17 Q. Okay. Let me come back now to that group
11:44:16 18 of about 20 people who said -- who asked you why
11:44:25 19 you were selling, or did you sell your scone at
11:44:29 20 the Christmas Tree Shop, not the one person we
11:44:31 21 talked about, the other 19 or so.

11:44:33 22 Did any of them buy your scone?

11:44:38 23 A. They were not for sale.

11:44:40 24 Q. Because by then you had discontinued?

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11:46:10 1 A. They may have bought them in the past.

11:46:13 2 Q. But --

11:46:15 3 A. But they did not buy them at that time
11:46:17 4 because they were not there.

11:46:18 5 Q. So that must mean, right, that none of
11:46:25 6 those folks bought your sconce at the October 2003
11:46:31 7 Columbus sale?

11:46:31 8 A. I don't know.

11:46:33 9 Q. You can't say?

11:46:34 10 A. I don't know.

11:46:50 11 Q. How long have you, sir, been making glass
11:46:54 12 creations?

11:46:55 13 A. 35 years.

11:46:57 14 Q. And how long have you been making sconces
11:47:01 15 like the one even in a different size of Exhibit 5?

11:47:05 16 A. Since approximately 1992.

11:47:09 17 Q. And have they all been sconces for the
11:47:21 18 purposes of hanging?

11:47:22 19 A. Yes.

11:47:24 20 Q. And what function are they intended to
11:47:29 21 serve?

11:47:29 22 A. We make them primarily to hold dry flower
11:47:34 23 arrangements; or in using live flowers, we provide
11:47:37 24 the customer with florist tubes.

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11:48:58 1 copper-foil wrap, which would make them sturdier
11:49:03 2 than the earlier constructed piece.

11:49:08 3 It would meet our standards of an
11:49:12 4 unconditional guarantee of any defect in
11:49:15 5 workmanship.

11:49:21 6 Q. I suppose an opening at the top would be --
11:49:24 7 would fall into the category of something you had
11:49:26 8 to have, right?

11:49:27 9 A. Correct.

11:49:28 10 Q. In the same vein, closed end at the bottom?

11:49:32 11 A. Correct.

11:49:39 12 Q. Any other features other than those that
49:42 13 you can think of that had to be incorporated into
11:49:46 14 any Glass Eye sconce to make sure that it met the
11:49:49 15 function of being able to hold flowers?

11:49:51 16 A. Not specifically that I can think of.

11:50:06 17 Q. You told me that you have been doing this
11:50:12 18 for over three decades. How long has the Glass Eye
11:50:18 19 Gallery been in business?

11:50:18 20 A. 35 years.

11:50:25 21 Q. Again, how long has Glass Eye sold sconces,
11:50:30 22 either yours or others?

11:50:31 23 A. Stained glass sconces, since 1992.

11:50:38 24 Q. And other glass sconces before that?

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:57:39 1 marked as Plaintiffs' Exhibit 6.

11:57:44 2 Take a look at that.

11:57:53 3 A. Okay.

11:57:56 4 Q. Is Exhibit 6 roughly equivalent to the ones
11:57:59 5 you saw at the Christmas Tree Shop yourself?

11:58:01 6 A. I believe this is one that I purchased.

11:58:05 7 Q. And when you saw it in the shop, did it
11:58:09 8 have the Christmas Tree Shop label on it?

11:58:11 9 A. Yes.

11:58:11 10 Q. And did that label include the words
11:58:14 11 "Christmas Tree Shop" in red?

11:58:15 12 A. Yes.

58:16 13 Q. As well as "made in China"?

11:58:18 14 A. Yes.

11:58:19 15 Q. And "\$1.99"?

11:58:20 16 A. Yes.

11:58:21 17 Q. Those were all there, and you had seen them
11:58:23 18 before you brought the complaint that we have
11:58:27 19 marked, correct?

11:58:27 20 A. Yes.

11:58:28 21 Q. Is it also fair to say that these reports
11:58:33 22 that you have gotten from customers that you
11:58:36 23 already testified to all came before you brought
11:58:40 24 the complaint? That's the legal word for the

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:58:43 1 document that's in front of you here.

11:58:45 2 A. Yes.

11:58:46 3 Q. Okay. You relayed those to your lawyers
11:58:49 4 presumably?

11:58:50 5 A. Yes.

11:58:53 6 Q. Take a look, if you would, at Paragraph 28.
11:58:57 7 It's on one of the pages that I asked you to take a
11:59:00 8 look at, Page 5.

11:59:06 9 It says that, "The defendant's copies
11:59:08 10 are inferior to Plaintiffs' work in craftsmanship
11:59:12 11 and appearance." Do you see that?

11:59:15 12 A. Yes.

59:15 13 Q. Is that one of the allegations that you
11:59:17 14 believe to be true?

11:59:18 15 A. Yes.

11:59:18 16 Q. And it's certainly true with regard to the
11:59:21 17 Christmas Tree Shop version of your sconce?

11:59:22 18 A. Correct.

11:59:23 19 Q. What other ways, sir, is the Christmas Tree
11:59:27 20 Shop sconce inferior in appearance? And you have
11:59:31 21 it in front of you, Exhibit 6.

11:59:34 22 A. The textured extruded lead product that
11:59:43 23 they have used on the front does not have the look
11:59:46 24 of being handmade, hand-done.

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:59:48 1 Q. So the textured -- say it again.

11:59:52 2 A. It looks to be me to be an extruded form of
11:59:55 3 a lead caning or lead lining.

11:59:58 4 Q. The textured lead lining is one of the
12:00:03 5 features that is inferior in appearance?

12:00:06 6 A. Correct.

12:00:06 7 Q. Another one?

12:00:07 8 A. If I may see mine. (Tapping on sconce.)
12:00:24 9 Mine is solid. This one is not (indicating). It's
12:00:33 10 inferior construction.

12:00:36 11 Since the first time I saw it, after
12:00:38 12 having sent it to you, someone did push it back
00:43 13 together. It was pulled further apart, which is a
12:00:48 14 sign of inferior construction.

12:00:49 15 Q. Okay. When I was focusing you on the ways
12:00:54 16 in which they appeared to be inferior, tell me if I
12:00:59 17 am wrong, but the way that one would notice the
12:01:01 18 inferiority in that construction would be by --

12:01:07 19 A. You mean me?

12:01:09 20 Q. Anyone.

12:01:10 21 A. I cannot speak for the general population,
12:01:14 22 beyond myself. I am very much in tuned to the
12:01:19 23 quality of construction of glasswork; and in my
12:01:23 24 professional eye, there is no question of

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:01:25 1 inferiority. It's there.

12:01:27 2 Q. When you were stating in Paragraph 28 that
12:01:32 3 these copies were inferior to Plaintiffs' in
12:01:37 4 appearance, did you mean in appearance to you or to
12:01:45 5 customers?

12:01:45 6 A. I was speaking, in my opinion, and I don't
12:01:54 7 believe I would be the only one. I think any glass
12:01:58 8 person would look at it and would realize it.

12:02:00 9 Q. Okay. But how about customers, do you
12:02:03 10 think there are any features of the Christmas Tree
12:02:05 11 Shop product that would appear inferior to a
12:02:09 12 customer?

02:10 13 A. If it were one of my customers, yes.

12:02:13 14 Q. Then why don't we focus on those features
12:02:15 15 for now.

12:02:17 16 The textured lead lining?

12:02:19 17 A. The textured soldering would be the most
12:02:24 18 noticeable thing that they would see. They would
12:02:26 19 notice that it is done in lead -- that mine was
12:02:31 20 done in copper and the Christmas Tree Shop copy was
12:02:34 21 done in lead.

12:02:45 22 Q. You mean the lining (indicating)?

12:02:47 23 A. The wrapping. This is all lead. It is
12:02:51 24 soft. It will stretch. It will pull apart.

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12:02:55 1 Q. Any other features between the textured
12:03:00 2 soldering and the copper versus lead wrapping that
12:03:03 3 would be apparently inferior to a customer of
12:03:07 4 yours?

12:03:07 5 A. No.

12:03:07 6 Q. Those are the only two?

12:03:08 7 A. Yes.

12:03:10 8 Q. How about people who are not customers of
12:03:14 9 your gallery, do you think that there would be any
12:03:18 10 features that would appear inferior?

12:03:21 11 A. The price tag.

12:03:22 12 Q. Explain.

12:03:23 13 A. They would see mine at \$32.95 and this at
12:03:29 14 \$1.99, and unfortunately the bulk of businesses in
12:03:32 15 this country are guided by dollars and not always
12:03:35 16 by quality.

12:03:35 17 Q. When you said the price tag is one way that
12:03:38 18 the Christmas Tree Shop version would appear
12:03:42 19 inferior, are you telling me that somebody who sees
12:03:48 20 \$1.99 would know that this is a product of inferior
12:03:52 21 craftsmanship?

12:03:54 22 A. I believe if they were common-sensible
12:03:56 23 enough, they would know it.

12:04:04 24 Q. And did any of the folks who asked whether

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:19:56 1 A. As profit, without having my tax documents
12:19:58 2 in front of me, I can't.

12:20:00 3 Q. No idea?

12:20:01 4 A. No.

12:20:02 5 Q. The same with regard to 2004?

12:20:04 6 A. Without having my tax returns in front of
12:20:09 7 me, I can't.

12:20:10 8 Q. The tax returns will show us what the
12:20:12 9 profitability of the business was?

12:20:13 10 A. Correct.

12:20:14 11 Q. That's your principal source of income, the
12:20:18 12 revenues generated by the Glass Eye Gallery?

20:20 13 A. Yes.

12:20:28 14 Q. Take a look at Paragraph 9 of Exhibit 3,
12:20:39 15 please, and that paragraph says, among other
12:20:57 16 things, that "Christmas Tree Shops has imitations
12:21:03 17 made in China, and they sell the products for a
12:21:06 18 small fraction of the original price."

12:21:10 19 Do you see that in Paragraph 9?

12:21:14 20 A. Yes.

12:21:17 21 Q. How did you know at the time you filed this
12:21:21 22 complaint that Christmas Tree Shops' imitations, to
12:21:24 23 use your word, were made in China?

12:21:26 24 A. (Indicating.) The label clearly states

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12:21:32 1 that they are made in China.

12:21:33 2 Q. And how did you know that the Christmas
12:21:38 3 Tree Shops' product was selling at a small fraction
12:21:43 4 of the price of your product?

12:21:45 5 A. The label (indicating).

12:21:46 6 Q. Did you ever, when you went into Christmas
12:21:49 7 Tree Shops, see any version of the Christmas Tree
12:21:53 8 Shop sconce, Exhibit 6 --

12:22:00 9 (Interruption.)

12:22:02 10 Q. When you went in Christmas Tree Shops, did
12:22:04 11 you ever see a version of the sconce, Exhibit 6,
12:22:07 12 that did not have the label that showed it was made
12:22:11 13 in China, and that it was selling for \$1.99?

12:22:14 14 A. No.

12:22:15 15 Q. Did any of the folks who reported to you
12:22:17 16 with regard to confusion ever say to you that they
12:22:20 17 had seen a version of the Christmas Tree Shops'
12:22:24 18 product in a Christmas Tree Shop store that did not
12:22:27 19 have the "Made in China" label or the sales label?

12:22:29 20 A. No.

12:22:36 21 Q. The same documentation. Look at Paragraph
12:22:39 22 23, please.

12:22:50 23 Paragraph 23 says, "Plaintiffs'
12:22:51 24 products" -- meaning yours, among others -- have

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:22:53 1 secondary meaning. Consumers and retail stores
12:22:56 2 recognize the plaintiffs as the source of products
12:23:00 3 that have been copied by Christmas Tree Shop."

12:23:03 4 Do you see that allegation?

12:23:04 5 A. Yes.

12:23:05 6 Q. And I take it you believe that to be true?

12:23:08 7 A. Yes.

12:23:09 8 Q. You talked to us about reports that you
12:23:13 9 have gotten from consumers --

12:23:14 10 A. Yes.

12:23:15 11 Q. -- and a couple from employees.

12:23:17 12 Did anybody from any retail store ever
23:20 13 report to you anything with regard to confusion,
12:23:24 14 inferiority or anything else about the products at
12:23:28 15 issue?

12:23:28 16 A. Concerning just these products?

12:23:30 17 Q. Concerning the sconce, yes.

12:23:33 18 A. No.

12:23:35 19 Q. Let's concentrate on consumers then.

12:23:40 20 What features of your product, if any,
12:23:46 21 are the ones that allow consumers to recognize you
12:23:50 22 as the source of your product?

12:23:53 23 A. This product is unique in that the only
12:23:58 24 place other than this that I'm aware it being

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·24:01 1 produced is in my studio.

12:24:07 2 We do a large portion of our buying for
12:24:11 3 our gallery at national shows. I have never seen
12:24:14 4 an item anywhere close to resembling this
12:24:17 5 (indicating).

12:24:17 6 It is a unique design of our own. The
12:24:21 7 only place that it is available is at the Glass Eye
12:24:26 8 Gallery and at the Society of Cape Cod
12:24:30 9 Craftsmanship Show.

12:24:32 10 Q. While I appreciate you firmly believe that
12:24:36 11 that is a unique property, really what I am trying
12:24:39 12 to concentrate on is what allows consumers, people
12:24:41 13 other than you, okay, to recognize this unique
12:24:47 14 product as originating with you.

12:24:52 15 When they look at it, sir, what is it
12:24:54 16 -- what feature, if you can name them for me, would
12:24:57 17 cause them to recognize it as John Knight's
12:25:01 18 creations and no one else's?

12:25:02 19 A. The primary would be that our customers
12:25:06 20 have been told over the years that all of the
12:25:10 21 stained glasswork in the Glass Eye Gallery is made
12:25:14 22 by myself and my assistants in our studio.

12:25:19 23 If you come in, if you are a regular
12:25:21 24 customer and you see an item in stained glass, it

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25:25 1 is very logical for you to assume it has been made
12:25:28 2 in my studio.

12:25:29 3 Q. So the fact that it is in your gallery is a
12:25:32 4 big red flag to folks it may well be created by
12:25:36 5 you?

12:25:36 6 A. Correct.

12:25:37 7 Q. And did you in 2003 and 2004, if you can
12:25:40 8 remember, sell any other wall sconces that were
12:25:44 9 made by anyone other than you in your gallery?

12:25:47 10 A. Stained glass?

12:25:49 11 Q. Stained glass.

12:25:50 12 A. No.

25:51 13 Q. So the fact they are in your store.

12:26:00 14 Any other features? If somebody goes
12:26:02 15 into a home in Eastham and was to see your sconce
12:26:09 16 on the wall, is it your position -- I am not trying
12:26:12 17 to put words in your mouth -- are there any other
12:26:15 18 features that he or she would see that would allow
12:26:19 19 him or her to recognize it as a John Knight
12:26:21 20 creation?

12:26:22 21 A. Until this showed up, any customer of ours
12:26:27 22 who walked into someone's home, I would assume,
12:26:30 23 would say, "Oh, that came from the Glass Eye,
12:26:33 24 because that is the only place I have ever seen

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26:36 1 it."

12:26:37 2 Q. That is a customer of yours.

12:26:39 3 How about somebody who is not a
12:26:40 4 customer of yours? Is there any way that somebody
12:26:43 5 in the general consuming public would know?

12:26:46 6 A. I would assume that if you personally saw
12:26:51 7 one of my candleholders, which are very
12:26:53 8 distinctive, you will not associate it with coming
12:26:59 9 from my studio or gallery because you've never been
12:27:02 10 there.

12:27:02 11 Q. It's those discriminating, educated
12:27:05 12 consumers who have been to the gallery and seen the
12:27:08 13 quality of your work, seen the features you talked
12:27:10 14 about, that would recognize this is a John Knight
12:27:12 15 piece; is that fair to say?

12:27:14 16 A. Yes.

12:27:15 17 Q. For that person who's not been to your
12:27:19 18 store, for example, okay, would the textured
12:27:23 19 soldering be something that in your view is
12:27:26 20 associated with you and no one else?

12:27:28 21 A. No.

12:27:29 22 Q. There must be other accomplished
12:27:31 23 craftspeople who would use textured soldering?

12:27:34 24 A. I would say there are more amateurs than

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12:32:48 1 believing that the plaintiffs were the source of
12:32:51 2 the illegal copies." Do you see that?
12:32:53 3 A. Yes.
12:32:53 4 Q. And you believe that allegation to be true?
12:32:56 5 A. Okay. Yes.
12:32:59 6 Q. I take it there are no other stores selling
12:33:03 7 your sconces?
12:33:04 8 A. Yes.
12:33:05 9 Q. We are only talking about your consumers
12:33:08 10 who may have been confused?
12:33:10 11 A. Correct.
12:33:10 12 Q. Other than the testimony that you have
12:33:13 13 given to us about some people who asked you why you
12:33:18 14 were selling the sconces to Christmas Tree Shop, or
12:33:21 15 did you do so, any other customers, consumers that
12:33:26 16 were confused by Christmas Tree Shops' product and
12:33:29 17 believed that you may have been the source of that
12:33:32 18 product?
12:33:32 19 A. No, I can't.
12:33:37 20 Q. And even with regard to those folks, I
12:33:40 21 think your testimony is, you don't know whether or
12:33:42 22 not, other than that one woman, they bought any of
12:33:46 23 the Christmas Tree products, believing them to be
12:33:50 24 created by you?

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33:50 1 A. Correct.

12:33:52 2 Q. Paragraph 30, top of the Page 6.

12:34:09 3 "As a direct and proximate result of
12:34:11 4 this unauthorized copying, plaintiffs have suffered
12:34:14 5 injury to reputation and loss of income."

12:34:17 6 Do you see that?

12:34:18 7 A. Yes.

12:34:18 8 Q. You believe that to be true?

12:34:22 9 A. Yes, I do.

12:34:23 10 Q. Let's start with injury to your reputation.

12:34:26 11 In what ways do you believe that
12:34:29 12 Christmas Tree Shop selling of its sconce has
12:34:31 13 damaged the reputation of the Glass Eye Gallery?

12:34:34 14 A. This is quality (indicating). This is
12:34:37 15 trash (indicating). People looking at that can
12:34:42 16 associate that -- "Hey, that is their design and
12:34:45 17 maybe they sold it to them," and people come in and
12:34:49 18 say, "I don't know that I want to buy any more
12:34:51 19 here."

12:34:52 20 They damaged our reputation in that, if
12:34:57 21 that's a \$1.99 and that's a \$32.95, "perhaps they
12:35:02 22 are ripping us off on every item they sell."
12:35:08 23 That's damaging.

12:35:09 24 Q. Okay. Any other ways?

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:43:21 1 some evidence that there have been any that have
12:43:23 2 been paid.

12:43:24 3 Q. Okay. And, finally, why don't you go back
12:43:27 4 to Page 4, Paragraph 20. Take a moment to read it.
12:43:39 5 It talks about the characteristics of your sconce.

12:43:42 6 A. Right.

12:43:47 7 Q. Do I have your testimony correctly,
12:43:50 8 Mr. Knight, that to anybody other than a customer,
12:43:55 9 a regular customer of the Glass Eye Gallery, none
12:44:00 10 of these characteristics that you mentioned here
12:44:03 11 for that person would tip them off, allow them to
12:44:07 12 recognize Exhibit 5 as a creation of yours? Is
44:12 13 that right?

12:44:14 14 A. I am not clear on that..

12:44:16 15 Q. That's a terrible question. Let me do it
12:44:18 16 again.

12:44:18 17 Setting aside the people we were
12:44:22 18 talking about, the regular people of the gallery,
12:44:24 19 the rest of the uneducated consuming public, right?

12:44:27 20 A. Correct.

12:44:27 21 Q. Is there any one of the characteristics
12:44:30 22 that you have listed in Paragraph 20 that would
12:44:34 23 suggest to one of those people that a sconce like
12:44:37 24 Exhibit 5 is a creation of John Knight?

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44:40 1 A. Not unless they have been in my gallery.

12:44:44 2 Q. Got it.

12:44:53 3 A. Or received one as a gift or seen one in
12:44:56 4 someone's home.

12:44:58 5 Q. When you say "seen one in someone's home,"
12:45:04 6 you mean where it was identified as your piece?

12:45:06 7 A. Yes.

12:45:06 8 Q. There is some sort of education of John
12:45:09 9 Knight creations that comes before anybody would
12:45:12 10 recognize a John Knight piece as having been
12:45:14 11 created by John Knight; is that fair to say?

12:45:16 12 A. I think it's fair.

12:45:22 13 Q. The colors of opalescent glass for your
12:45:31 14 sconce -- first of all, was it sold in different
12:45:33 15 colors?

12:45:33 16 A. Yes.

12:45:33 17 Q. And are those colors all the ones that have
12:45:37 18 been written down on GE 001?

12:45:41 19 A. All of those colors. Possibly another
12:45:47 20 couple as new glasses came out.

12:45:50 21 Q. What went into the decision about colors?
12:45:54 22 Was that purely aesthetic?

12:45:56 23 A. It was aesthetic, but also popularity of
12:46:02 24 glasses in other items in the gallery.

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;48:33 1 Q. We were talking about observing fellow
12:48:41 2 craftsmen's work in media other than glass, and I
12:48:46 3 think you mentioned pottery.

12:48:47 4 A. We look at pottery. I would look at wooden
12:48:51 5 items. I would look at scrimshaw items. I would
12:48:56 6 look at metal items. I will look, hopefully, with
12:49:01 7 my own eye and the eye of our consumers.

12:49:04 8 Q. Is it fair to say that in all of those
12:49:08 9 media, that you do look at these competitors'
12:49:11 10 creations as at least a factor to inform you on
12:49:15 11 what your development of your own design is going
12:49:17 12 to be; is that right?

49:18 13 A. No.

12:49:19 14 Q. So you are looking at them for what
12:49:22 15 purpose?

12:49:22 16 A. For purchase for sale in our own gallery.

12:49:25 17 Q. But not for any sort of inspiration or
12:49:30 18 guidance in your creations?

12:49:31 19 A. No.

12:49:32 20 Q. Never?

12:49:32 21 A. No.

12:49:33 22 Q. Got it. This particular sconce, was the
12:49:39 23 design of it derived in any way, shape or form from
12:49:43 24 any other objects that you had seen out there?

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12:49:45 1 A. No.

12:49:46 2 Q. Completely original inspiration?

12:49:49 3 A. Correct.

12:49:52 4 Q. Given the originality and uniqueness that
12:49:55 5 you've attributed to your sconce, did you ever seek
12:49:59 6 to get any sort of copyright, patent or other
12:50:06 7 governmental protection for this design of this
12:50:09 8 sconce?

12:50:10 9 A. No.

12:50:10 10 Q. Have you done that with regard to any of
12:50:12 11 your other designs?

12:50:13 12 A. Not at present.

12:50:15 13 Q. Have you ever in the past?

12:50:16 14 A. No.

12:50:17 15 Q. Why not?

12:50:18 16 A. Naivete.

12:50:23 17 Q. How about since the reports of the alleged
12:50:27 18 copying by Christmas Tree Shop, have you sought
12:50:30 19 protection for any creations since then?

12:50:35 20 A. Not yet.

12:50:38 21 Q. How many creations, roughly, in order of
12:50:42 22 magnitude, have you developed since that report
12:50:45 23 back in May of 2003?

12:50:48 24 A. We have introduced -- to make up for the

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50:52 1 difference -- an expanded and a new line of beveled
12:50:56 2 glass candleholders.

12:50:59 3 We brought out our own collectible
12:51:03 4 Christmas ornaments, which we do, we brought those
12:51:06 5 out three months earlier than normal; and we
12:51:12 6 developed a line of basically recycled sandblasted
12:51:16 7 glassware.

12:51:17 8 Q. All new glassware that you brought out
12:51:21 9 since May '03?

12:51:22 10 A. Yes.

12:51:23 11 Q. But with regard to none of those, have you,
12:51:25 12 at least to present, sought any kind of trademark
51:28 13 or copyright or patent protection?

12:51:30 14 A. No.

12:51:32 15 Q. How do you advertise?

12:51:36 16 Let me take you back to 2003 and 2004.
12:51:39 17 How did you advertise your creation, if at all?

12:51:43 18 A. All creations? Not just the sconce?

12:51:45 19 Q. Let's start with the sconce. Thank you.

12:51:48 20 A. I don't believe that we have taken out a
12:51:51 21 single ad featuring just the sconce.

12:51:53 22 Q. Did you take out any ads during that time
12:51:55 23 features items including the sconce?

12:51:58 24 A. Possibly. I can't recall without going

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12:59:18 1 labeled or in a particular part of the gallery so
12:59:22 2 that folks know they are yours?

12:59:23 3 A. Not all of them. Our products are spread
12:59:26 4 out throughout the whole gallery, and we do have a
12:59:30 5 hang-tag that goes onto a lot of the work.

12:59:33 6 Q. And what does the hang-tag says?

12:59:34 7 A. It has a picture of our logo, the Glass
12:59:40 8 Eye, and it identifies the item as being designed
12:59:44 9 and fabricated by Donna and John Knight of the
12:59:49 10 Glass Eye Studio in North Eastham; and we also have
12:59:54 11 hang-tags on some items which list the glasses that
12:59:58 12 are used.

12:59:59 13 Q. So the hang-tag has a logo and words?

13:00:02 14 A. Right.

13:00:03 15 Q. Did the sconces have such a hang-tag?

13:00:06 16 A. Not on every one.

13:00:07 17 Q. On some?

13:00:08 18 A. Yes.

13:00:09 19 MR. BIAGETTI: I would like to have a
13:00:11 20 copy of that hang-tag.

13:00:13 21 MR. JOSEPH: Just provide that to me.

13:00:18 22 Q. Packaging, when folks buy something in the
13:00:22 23 gallery, let's start first with the sconce, is it
13:00:27 24 packaged at their request in a Glass Eye box or

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00:30 1 something that would identify the source?

13:00:32 2 A. We routinely box, in one of our gift boxes,
13:00:39 3 with tissue and/or with bubble wrap if necessary,
13:00:43 4 with the designated label.

13:00:44 5 We gift box, basically, I am going to
13:00:47 6 say, 99.9 percent of the items we sell. Some
13:00:51 7 people will say, "Oh, save the box. It's for me."

13:00:55 8 We have routinely, and generally our
13:01:02 9 help will ask, "Is this a gift?" And we offer free
13:01:06 10 very distinctive giftwrapping.

13:01:09 11 If you've seen it once, you know where
13:01:11 12 your package came from every time.

01:14 13 Q. The box, first. Does the box say in words
13:01:17 14 that it came from Glass Eye?

13:01:20 15 A. The label is right behind you (indicating).
13:01:21 16 That's what it says.

13:01:31 17 MR. BIAGETTI: Why don't we mark this.

13:01:43 18 EXHIBIT NO. 4 MARKED

13:01:44 19 Q. When you say 99.9 percent of the items that
13:01:47 20 leave the store, would that have included the
13:01:49 21 sconces in 2003 and 2004?

13:01:52 22 A. Right.

13:01:53 23 Q. And you said the wrapping is distinctive as
13:01:56 24 well?

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:01:56 1 A. Correct.

13:01:56 2 Q. And for how long have you been using the
13:01:59 3 distinctive wrapping?

13:02:01 4 A. We have always used a form of distinctive
13:02:04 5 wrapping since we have been in business.

13:02:05 6 Q. So in 2003 and 2004 --

13:02:08 7 A. The paper style has changed, but for the
13:02:11 8 last, I am going to go back at least 15 years, we
13:02:16 9 have used a very high-quality, almost a sea foam
13:02:24 10 green wrapping paper, with a ribbon and with
13:02:28 11 Donna's instructions on how employees fabricate
13:02:32 12 what are commonly called -- and people ask for
02:35 13 these -- fu-fus, which are tissue paper flowers
13:02:41 14 which are very discriminating and associated with
13:02:43 15 the Glass Eye, and they were affixed to every gift
13:02:49 16 picture. Unless I am doing the wrapping, and I
13:02:51 17 ask, "Is this coffee mug for a man?" I might not
13:02:56 18 put a fu-fu on a man's package.

13:02:59 19 Q. I just have a couple of more questions.

13:03:06 20 Any other ways that you can think of
13:03:09 21 besides the logo, the wrapping, the distinctive
13:03:12 22 ornaments on the wrapping, that the Glass Eye tries
13:03:15 23 to sort of consciously connect a product when it
13:03:22 24 leaves the store to your gallery?

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03:25 1 A. Normally, all of our bags which we use have
13:03:31 2 an enlarged version of the top half of that
13:03:36 3 sticker. We flipped a coin, and I won out as the
13:03:41 4 more attractive. So my picture is on all of the
13:03:43 5 bags.

13:03:46 6 Q. You mean the logo?

13:03:48 7 A. Yes.

13:03:50 8 Q. We talked about the profile of the Glass
13:04:23 9 Eye Gallery customer.

13:04:24 10 Does it differ in any way from what you
13:04:27 11 believe the profile is from the typical Christmas
13:04:30 12 Tree Shop customer?

13:04:31 13 A. I don't want put any discriminatory remarks
13:04:38 14 in concerning what -- of people's customers.

13:04:42 15 Q. Are you trying --

13:04:44 16 A. I am trying to be nice.

13:04:45 17 Q. I know that, and I appreciate that.

13:04:48 18 I am trying to understand what, if any,
13:04:49 19 difference there is between the markets, without
13:04:51 20 being pejorative.

13:04:53 21 A. And everyone loves a bargain, and they go
13:04:59 22 to the Christmas Tree Shop. Not everyone comes to
13:05:04 23 the Glass Eye.

13:05:04 24 Q. Leaving aside why a customer goes to the

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05:08 1 Christmas Tree Shops, is it fair to say that the
13:05:11 2 Glass Eye Gallery is not targeting or after the
13:05:14 3 typical Christmas Tree Shop customer?
13:05:15 4 A. No.
13:05:16 5 Q. You are after a different customer?
13:05:18 6 A. Yes.
13:05:19 7 Q. How would you describe the difference,
13:05:22 8 without being pejorative?
13:05:22 9 A. We are not looking for bargain-hunters. We
13:05:26 10 are not looking for people who are interested in
13:05:30 11 lesser-quality items.
13:05:33 12 We are looking for people who are
1 05:35 13 interested, not only in the quality of the work
13:05:37 14 that we make, but the quality of the work that we
13:05:40 15 carry.
13:05:41 16 Q. And from your observation over the years,
13:05:43 17 the Christmas Tree Shop customer typically is the
13:05:46 18 bargain-hunter type?
13:05:48 19 A. Correct.
13:06:12 20 Q. You mentioned the labeling as one way you
13:06:16 21 communicate to customers that certain items in the
13:06:19 22 shop are made in North America.
13:06:21 23 A. Right.
13:06:21 24 Q. Any other way that staff people might relay

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:10:17 1 sales to a customer be for the past several years?

13:10:23 2 A. I would have to check my credit card
13:10:28 3 statements, because in the last four or five years,
13:10:31 4 approximately 80 percent of all of our sales have
13:10:36 5 been on credit cards, and they give us an average
13:10:39 6 ticket sale; and to the best of my recollection, it
13:10:45 7 would be in the area of 85 to a hundred dollars.

13:10:49 8 Q. So if someone bought a scone for \$32.95,
13:10:53 9 would that have been an average sale? In other
13:10:57 10 words, would they have bought approximately \$50
13:10:59 11 more with the scone?

13:11:00 12 A. I would say yes.

11:04 13 MR. JOSEPH: I have no further
13:11:06 14 questions.

13:11:06 15 MR. BIAGETTI: One follow-up to
13:11:07 16 something you just said Mr. Knight.

13:11:10 17 REDIRECT EXAMINATION

13:11:10 18 BY MR. BIAGETTI:

13:11:10 19 Q. If I heard you correctly -- I want you to
13:11:13 20 give the range you are comfortable with from 2001
13:11:16 21 through 2003 -- I believe you said you sold
13:11:19 22 anywhere from 1,200 to 3,000 scones?

13:11:24 23 A. I can't give an exact figure.

13:11:25 24 Q. Even to the nearest thousand?

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11:27 1 A. No. Impossible.

13:11:30 2 Q. Whatever the figure is, it includes sconces
13:11:34 3 of sizes that are different from Exhibit 5,
13:11:37 4 correct?

13:11:38 5 A. I can be fairly accurate in saying there
13:11:49 6 were six mega sconces, and a handful of the large
13:11:54 7 ones, which we discontinued. The megas were all
13:11:59 8 done on special order.

13:12:00 9 Q. So 99 percent of sconces sold -- whatever
13:12:03 10 that number is -- are of the size of Exhibit 5?

13:12:05 11 A. Correct.

13:12:05 12 Q. Last chance to give me a range number of
12:08 13 the sconces sold.

13:12:09 14 A. I don't know.

13:12:10 15 MR. BIAGETTI: I appreciate that.

13:12:10 16 MR. JOSEPH: I have one follow-up.

13:12:13 17 RECROSS-EXAMINATION

13:12:13 18 BY MR. JOSEPH:

13:12:14 19 Q. Mr. Biagetti seem to have indicated you
13:12:17 20 couldn't come to the nearest thousand.

13:12:19 21 Could you say it was more than a
13:12:21 22 thousand or between one thousand and two thousand?

13:12:23 23 A. I would go as far as to say it was more
13:12:26 24 than a thousand.

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1 COMMONWEALTH OF MASSACHUSETTS)

2 SUFFOLK, SS)

3
4 I, Deborah L. Roth, and Notary Public in and for
5 the Commonwealth of Massachusetts, do hereby
6 certify that there came before me on November 9,
7 2005, the person hereinbefore named, who was by me
8 duly sworn to the truth concerning any knowledge in
9 this cause; that that person was thereupon examined
10 under oath, and the examination reduced to
11 typewriting; and that the deposition is a true
12 record of the testimony given by the witness.

13 I further certify that I am neither related to nor
14 employed by any attorney or counsel employed by
15 the parties hereto or financially interested in the
16 action.

17 In witness whereof, I have hereunto set my hand
18 this 17th th day of November 2005.

19 

CERTIFIED ORIGINAL
LEGALINK BOSTON

20
21 DEBORAH ROTH, Notary Public

22 My commission expires: 2/7/08
23
24

Gary C. Briggs

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JOHN KNIGHT, DONNA RUSSELL KNIGHT,
CHARLES COLE, VIIU NIILER, COUNTRY GLASS
SHOP, AUNT SADIE'S, INC., AND SUSAN BOERMAN
Plaintiffs

V.

CHRISTMAS TREE SHOPS, INC.

Defendant

**CERTIFIED ORIGINAL
LEGALINK BOSTON**

30(b)(6) Notice to Aunt Sadie's, Inc.

Deposition of Gary C. Briggs

Wednesday, November 9, 2005

2:11 p.m.

Mintz Levin Cohn Ferris Glovsky and Popeo, PC

One Financial Center

Boston, Massachusetts

Reporter: Deborah Roth, RPR/CSR

LegalLink Boston
(617) 542-0039

Gary C. Briggs

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1 PRESENT:

2
3 Joel D. Joseph, Esq.

4 Joseph & Associates

5 7272 Wisconsin Avenue, Suite 300

6 Bethesda, Maryland 20814

7 301 941 1989

8 For the Plaintiffs

9
10
11 Peter A. Biagetti, Esq.

12 Carrie Kei Heim, Esq.

13 Mintz Levin Cohn Ferris Glovsky and Popeo, PC

14 One Financial Center

15 Boston, Massachusetts 02111

16 617 542 6000

17 For the Defendant

18
19 ALSO PRESENT: Kenneth Bradley, Esq.

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1 about the way I am asking, whether it called for
2 privileged information, let me know, and I will
3 behave accordingly.

4 A. Okay.

5 Q. Full name and address, please, for the
6 record.

7 A. Gary Clayton Clark Briggs, 52 Waltham
8 Street, Boston, Mass. 02118.

9 Q. Employed by?

10 A. Aunt Sadie's.

11 Q. And Aunt Sadie's is what?

12 A. Candle manufacturer.

13 Q. And retail outlet store?

14 A. We have retail stores, also, yes.

15 Q. What is your job at Aunt Sadie's?

16 A. I am the co-owner.

17 Q. How many other owners?

18 A. Just one.

19 Q. And that is?

20 A. Brian Schnetzer.

21 Q. Does Mr. Schnetzer also work for Aunt
22 Sadie's?

23 A. Yes.

24 Q. How many employees?

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1 A. 15.

2 Q. How many factories?

3 A. One.

4 Q. In?

5 A. Massachusetts.

6 Q. In Boston?

7 A. Yes, it is.

8 Q. And that factory makes candles?

9 A. Yes.

10 Q. Anything else?

11 A. No.

12 Q. How long has the factory been making
13 candles?

14 A. Seven years. Actually, eight years. I'm
15 sorry. I just had to count.

16 Q. How many stores, retail outlets -- does
17 Aunt Sadie's operate any stores?

18 A. Yes.

19 Q. How many?

20 A. We operate one in Boston, and we are
21 opening one in Denver in three weeks.

22 Q. How long has the store in Boston been open?

23 A. Five years, about five and a half years.

24 Q. And the second store in Denver will be your

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1 only other --

2 A. Yes.

3 Q. And that is set to open when?

4 A. November 25, I think is the date.

5 Q. Congratulations.

6 A. Thank you.

7 MR. JOSEPH: The day after
8 Thanksgiving?

9 THE WITNESS: Yes.

10 MR. JOSEPH: I will be there.

11 THE WITNESS: Cool!

12 MR. BIAGETTI: A beautiful moment.

13 Q. Does the store in Boston sell anything
14 other than candles?

15 A. Yes.

16 Q. What else, generically?

17 A. A lot of things. Body care. It's more
18 geared toward women than men, although there is a
19 men's section.

20 We sell blankets. We sell handbags, we
21 sell other candles, other than our own.

22 Q. That was my next question.

23 Let's focus on the candle department,
24 and we will get to documents where you tell us the

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1 percentage of candle sales as it relates to total
2 sales.

3 In terms of the candles that you do
4 sell, first of all, are they all over the store or
5 in a candle department?

6 A. All over the store, but primarily in a
7 candle department, but all over the store.

8 Q. These candles that you sell throughout the
9 store, roughly in percentages, how much of the
10 stock is Aunt Sadie's produced and how much is
11 third party?

12 A. Just candles only?

13 Q. Candles only.

14 A. Probably, my guess would be, 70 percent is
15 Aunt Sadie's.

16 Q. And was that percentage, again, roughly
17 true in 2003 and 2004 as well as 2005?

18 A. Yes.

19 Q. The Aunt Sadie's candles, are they labeled
20 as such in some way so that a customer who comes
21 into the store can distinguish them from the
22 non-Aunt Sadie's candles?

23 A. Some -- all the candles have our name on it
24 somewhere. Sometimes the name is not pronounced.

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1 or she is buying an Aunt Sadie's candle?

2 A. No.

3 Q. You said there are other ways they can
4 tell?

5 A. Yes.

6 Q. We will get to those later.

7 In addition to the one retail outlet,
8 are Aunt Sadie's candles sold in any other store or
9 any other way? Mail order?

10 A. Yes. Both Website and other retail stores.

11 Q. Let's go with other retail stores first.

12 All over the country? In New England?

13 A. Yes, all over the country.

14 Q. The same is true with regard to the ones
15 that are sold all over the country, that somewhere
16 on the can there are the words "Aunt Sadie's"?

17 A. Unless it's a private-label thing that we
18 are doing.

19 Q. Do you do some private label?

20 A. A small amount.

21 Q. What percentage of sales is private label?

22 A. Between five and ten.

23 Q. Five and ten percent of all candle sales or
24 Aunt Sadie's sales?

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1 A. All Aunt Sadie's sales.

2 Q. So the private-label candles that are
3 manufactured by Aunt Sadie's obviously would not
4 have "Aunt Sadie's" on the labeling anywhere?

5 A. Sometimes they do. Sometimes they don't.
6 We allow the people who we make them for to make
7 the decision.

8 Q. Are there other differences in quality or
9 ingredients in the manufacture of the private label
10 versus the Aunt Sadie's brands?

11 A. No.

12 Q. How about the quality of the scent or
13 anything like that?

14 A. The same.

15 Q. So is there anything about the
16 private-label candle in terms of quality of
17 ingredients, scent, that would allow a customer to
18 recognize it as having been manufactured by Aunt
19 Sadie's?

20 A. Yes.

21 Q. What would you say are those distinguishing
22 features?

23 A. The size of the container. The clear top
24 lid. In general, the whimsical nature of the

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1 labeling. The quality of the scent. You said not
2 that.

3 Q. I don't want to put words in your mouth.

4 A. The quality of the scent.

5 Q. So somebody in New Jersey could look at an
6 Aunt Sadie's-manufactured candle, even if it was
7 being sold under a private label, and would be able
8 to distinguish it as an Aunt Sadie's-made candle?

9 A. Yes.

10 Q. Based on these features?

11 A. I believe so, yes.

12 Q. The size of the container?

13 A. Yes.

14 Q. Clear top lid?

15 A. Yes.

16 Q. Whimsical nature of the labeling?

17 A. Yes.

18 Q. And scent is one of those features as well?

19 A. Yes.

20 Q. Meaning strength of scent?

21 A. Strength and quality.

22 Q. Any other features that you would say would
23 distinguish that candle as an Aunt Sadie's?

24 A. If you were a very educated consumer, the

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1 Q. Decorative and allowing for a flame and
2 scent.

3 A. Yes, I think so.

4 Q. In what way does the size help to meet
5 those functions?

6 A. Well, the size allows us the room to do the
7 graphics nature of the label, and a smaller size
8 would mean that the graphics couldn't be as
9 dominant as they are.

10 Q. How about shape? Same question.

11 How, if at all, did the shape that you
12 chose meet either of the two functions that you
13 mentioned?

14 A. Yes.

15 Q. In what ways?

16 A. We felt a round container was more
17 aesthetically pleasing than a square or triangle.

18 Q. Am I also right that if you did a square or
19 triangle you couldn't have quite the same kind of
20 removable top (indicating), or no?

21 A. No, you could.

22 Q. Okay. It's not a screw-top? It's a
23 pop-top?

24 A. Yes.

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1 A. I have not seen it, but Joel told me about
2 it, basically told me what it said.

3 Q. One of the things that it says is that you
4 are here because you have been designated as the
5 person most qualified --

6 A. Uh-huh.

7 Q. -- to testify on the matters set forth in
8 the exhibit to this notice.

9 So if you will take a very quick look
10 for me, Mr. Briggs, at all the categories on these
11 two pages, and once you are done, let me know if
12 there is someone else at Aunt Sadie's you think
13 would be more qualified to talk about one of these
14 particular subjects. If they are all you, you can
15 confirm that, too.

16 A. They are all me.

17 Q. Good to hear.

18 Let me ask you about one other possible
19 distinctive feature of the Aunt Sadie's candle, and
20 you can tell me whether or not it is.

21 Cost. How much do you sell these for?

22 A. Wholesale or retail?

23 Q. Retail.

24 A. Retail, the suggested price is \$15, for

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1 most of our designs.

2 Q. \$15?

3 A. Yes.

4 Q. Why don't you give me the wholesale cost
5 while you are at it?

6 A. The wholesale cost would be \$7.35.

7 Q. Cost is indicated, at least on the ones in
8 your store, by a price tag?

9 A. Yes.

10 Q. Does the price tag have any logo or the
11 labeling on it?

12 A. I don't know that, to be honest. I don't
13 know if the price tag says "Aunt Sadie's" or not.

14 Q. Does Aunt Sadie's have a logo?

15 A. Yes.

16 It doesn't have the logo on it. I know
17 that.

18 Q. But it may or may not say "Aunt Sadie's"?

19 A. Right.

20 MR. BIAGETTI: We are going to probably
21 ask for a representative --

22 MR. JOSEPH: Price sticker?

23 MR. BIAGETTI: -- price sticker.

24 Q. What about the \$15 cost that the customer

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1 tracking or profiles?

2 A. Yes.

3 Q. Have you done in the past two years?

4 A. Yes.

5 Q. What does it tell you about the typical
6 Aunt Sadie's candle customer?

7 A. They are a woman. They are a middle-aged
8 women probably. They -- I don't know what else to
9 say. Those two are important.

10 Q. Only the things you remember.

11 A. Well --

12 Q. Let me ask you this one: Anything about
13 geography? Are you selling them all over the
14 country? I assume your customers are all over the
15 country.

16 A. Yes.

17 Q. Are they predominantly in the Boston
18 area --

19 A. No.

20 Q. -- because of the retail shop?

21 A. No.

22 Q. What about income, are they --

23 A. I don't think that we have ever done
24 anything that would allow us to define that.

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1 Q. You mentioned before, when we were talking
2 about features, educated consumers.

3 A. Uh-huh.

4 Q. I don't mean when I ask you this in terms
5 of schooling type of education --

6 A. Right.

7 Q. -- but does your profiling give you any
8 sense of how discerning your customers are?

9 A. It does tell us that our customers are
10 definitely keen on scents, and that they -- if they
11 are going to buy a candle, they prefer to buy a
12 candle that has a pleasing scent, that they think
13 is realistic or true to life.

14 Q. Are they impulse buyers versus more
15 deliberate ones?

16 A. I don't think we know that.

17 Q. When it comes to buying a candle, they take
18 their time and have the ability to discern better
19 quality of scent, et cetera?

20 A. Some, yes. The average, yes. Probably,
21 yes.

22 Q. Have you been in a Christmas Tree Shop
23 retail outlet before?

24 A. Yes.

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1 Q. Fair enough. When we get to the complaint,
2 it talks about theme candles.

3 I take it these are the four theme
4 candles as of right now you believe are the ones
5 that have been infringed by Christmas Tree Shop; is
6 that right?

7 A. I believe that we believe there are others,
8 but we don't know what those are.

9 Q. Okay.

10 A. Because we don't have samples, but these
11 were the four we think, we believe.

12 Q. Without any prejudice to you in the future
13 being able to broaden your claim, all I am doing
14 this for is trying to see that we all know what we
15 are talking about for today.

16 It's these four, right?

17 A. Yes.

18 Q. I appreciate that.

19 The sales of at least two of the
20 products, the Apple Pie and the Happy Birthday, it
21 looks like have been sold for a longer time than
22 the three years of sales that are listed here. Do
23 you see that?

24 A. Yes.

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1 Q. Apple Pie, since 2001; and Happy Birthday,
2 since 2002?

3 A. Yes.

4 Q. Why did you confine yourself in the sales
5 summary to 2002, 2003, 2004 and 2005 for those
6 products?

7 A. I think that's what Joel had asked me to
8 do.

9 MR. BIAGETTI: I do think the trend of
10 sales would be relevant. I am going to ask you to
11 do the same thing for those two, for the other
12 years in question.

13 MR. JOSEPH: We will supply that to you
14 in a week or so.

15 MR. BIAGETTI: That is perfect.

16 Q. Then I noticed that for 2005 figures, it
17 says "2005 to date," and I need to know to what
18 date, up through what date? Half a year?

19 A. I believe the date --

20 Q. Can you tell from any of that backup? I
21 don't want you to guess.

22 A. The date of October 19th sticks in my head.

23 It would be through October 28.

24 MR. JOSEPH: 28th?

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1 A. Yes.

2 Q. We will get to that after we talk more
3 generally.

4 A. Okay.

5 Q. Let me ask about that last category, sort
6 of the research you said you did with regard to
7 protection, trade dress, et cetera.

8 Are any of the candles that we are
9 taking about, that are at issue so far in this
10 case, are any of those protected by a registered
11 federal copyright that you know?

12 A. A specific candle? Are we talking about
13 specific candles?

14 Q. I am talking about the four that we have
15 agreed right now are ones that Aunt Sadie's
16 believes have been copied, infringed, okay?

17 Are any of those -- Apple Pie, It's a
18 Boy, It's a Girl or Happy Birthday -- protected by
19 a registered copyright?

20 A. No.

21 Q. Is there a patent on any of them?

22 A. No.

23 Q. Is there any other kind of government
24 protection that Aunt Sadie's has applied for, filed

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1 for any of these four candles?

2 A. Not specific to those four, but related to
3 those four, Aunt Sadie's is protected -- we have --
4 I don't know if it is called a copyright or
5 trademark. We hold a legal document that "Aunt
6 Sadie's" is protected, and the term "Candle in Can"
7 is trademarked, and we are in the process of
8 trademarking another, but I don't know if that's
9 even relevant.

10 Q. Okay.

11 MR. JOSEPH: No.

12 Q. Assuming those are trademarked, do you
13 remember when you applied for the trademark on Aunt
14 Sadie's? Was it before 2005?

15 A. Yes.

16 Q. Was it before 2004?

17 A. Yes.

18 Q. How about on Candle in Can?

19 A. No.

20 Q. When do you think you applied for that one?

21 A. In 2005.

22 Q. Do you know when you applied on Aunt
23 Sadie's? What year?

24 A. I don't, to be honest.

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1 consumer that led you to make your shopping trip to
2 Christmas Tree Shop in the fall of '04?

3 A. No.

4 Q. Let's go to the time period after you
5 visited in the fall of '04.

6 Do you recall getting any other oral
7 reports from Aunt Sadie's customers about the
8 candles that were being sold at Christmas Tree
9 Shops?

10 A. Yes.

11 Q. Okay.

12 A. I can't give you specific customers or time
13 frames or anything like that.

14 Q. Is it fair that they came after the call
15 from Best of the Beach?

16 A. Yes.

17 Q. You remember that one because it was the
18 first one?

19 A. Right.

20 Q. Can you give me -- it's been a year?

21 A. Yes.

22 Q. Can you give me any sense of how many you
23 personally have received?

24 A. Probably 10 or 15.

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1 Q. Phone calls?

2 A. From either customers, sales
3 representatives for Aunt Sadie's, or people who
4 work for Aunt Sadie's. I would lump it into that
5 group.

6 Q. I am going to ask, if you can, of that
7 roughly 10 or 15, how many of them came from
8 customers as opposed to agents or employees of Aunt
9 Sadie's?

10 A. Probably half are from customers.

11 MR. JOSEPH: So that's seven and a half
12 people?

13 THE WITNESS: Roughly. One was a
14 child.

15 Q. Did you speak to these roughly seven or
16 eight customers yourself?

17 A. Yes.

18 Q. And, again, in the cases, at least that you
19 can remember, what did they tell you that they
20 observed?

21 A. My recollection is similar to the
22 conversation that I had with the Best of the Beach
23 person, which is, "We see something that looks look
24 Aunt Sadie's candles at Christmas Tree Shops."

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1 Q. Did any one of them mention whether they
2 bought the Christmas Tree Shop candle?

3 A. No.

4 Q. No, they didn't mention it, or --

5 A. They didn't mention it.

6 Q. And I take it, again, in every case, you
7 let them know, no, you were not selling your
8 candles at Christmas Tree Shops?

9 A. Yes.

10 Q. Anything else that you can remember that
11 jumps out at you about any of those conversations?

12 A. No.

13 Q. In March of '05, you got --

14 A. I got this letter (indicating).

15 Q. -- the letter that is part of what we
16 marked as Exhibit 4.

17 A. Yes.

18 Q. Again, for the record, as far as you know,
19 there are no other letters or e-mails --

20 A. No.

21 Q. -- that anybody at Aunt Sadie's has ever
22 gotten with regard to the products being sold at
23 Christmas Tree?

24 A. No.

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1 Q. Let's take a look at this letter dated
2 March 31 from Carol Wright.

3 Who is Carl Wright?

4 A. I believe she is the owner of the store
5 Oceana, or is in some way affiliated with that
6 store.

7 Q. And Oceana is a customer of Aunt Sadie's?

8 A. Yes.

9 Q. For how many years, do you know?

10 A. I don't know.

11 Q. Have you met Carol before?

12 A. I probably have. I can't definitively say
13 I have.

14 Q. Did you have any conversation with
15 Ms. Wright or anybody else from Oceana after you
16 got this letter?

17 A. I believe I called her as a result of this
18 letter.

19 Q. Do you recall what you said?

20 A. I don't.

21 Q. She says that, "Oceana is fans of your
22 candles and non-fans of the Christmas Tree Shop
23 copycats." Do you see that?

24 A. Yes, I do.

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1 Q. That's suggests, at least, that she knew
2 the difference between your candles and the
3 Christmas Tree Shop ones.

4 Was that your understanding as a result
5 of your conversation with her?

6 A. No. I can't necessarily infer that from
7 this letter.

8 Q. Did she say anything to you that you can
9 remember that led you to believe that she was in
10 fact confused about whether Aunt Sadie's candles
11 were being sold at Christmas Tree Shop?

12 A. No.

13 Q. She never said she -- she didn't ask you
14 that question that others asked?

15 A. No.

16 Q. She also says in this note, "Looking
17 forward to our summer order." Do you see that?

18 A. Yes.

19 Q. That was an order that she was going to
20 make on behalf of Oceana from Aunt Sadie's?

21 A. I presume so. I am not aware of that
22 specific order.

23 Q. So you don't know in fact whether or not a
24 few months after March Oceana made an order of Aunt

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1 Q. And did anybody review the contents of it
2 before you sent it out?

3 A. No. I actually sent it at the request of
4 Sarah Gregory.

5 Q. Thank you. Did you have some conversation
6 with Sarah before sending letter?

7 A. Yes.

8 Q. How did that come about?

9 A. I believe I called her as a result of
10 getting the letter from the woman at Oceana.

11 I don't know how I got to Sarah
12 Gregory. At the time I placed the call to
13 Christmas Tree Shops, I didn't know her.

14 In fact, at that time we -- the candle
15 says "Nantucket Distributing," and I wasn't -- I
16 knew these were being sold at Christmas Tree Shop,
17 but we didn't know Nantucket Distributing, whether
18 the Christmas Tree Shop was the manufacturer.

19 I had to do research to get to Sarah
20 Gregory, but I don't know how I got to her.

21 Q. You make this comment about creating brand
22 confusion, and you say, "I have enclosed a letter
23 from one of our customers for review related to
24 this issue."

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1 You do believe that the Christmas Tree
2 Shops' product is a substandard one, correct?

3 A. Yes, I do.

4 Q. Do you mean by that it is inferior to your
5 product?

6 A. No.

7 Q. What do you mean by "substandard"?

8 A. There is scent in this much of the candle
9 (indicating).

10 MR. JOSEPH: Instead of pointing,
11 please explain.

12 A. About the top quarter to half-inch of this
13 candle; and from there down, it's just wax, the
14 cheapest, bottom-of-the-barrel wax you can buy
15 overseas. That's why I think it's substandard.

16 Q. So there is scent only in a small layer,
17 and then the quality of the wax?

18 A. Yes.

19 Q. Anything else about the Christmas Tree
20 candle that you believe is, in your words,
21 substandard?

22 A. No.

23 Q. You do believe, do you not, that the
24 strength and quality of scent of the Aunt Sadie's

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1 candle is superior to that of the Christmas Tree
2 Shops'?

3 A. Yes.

4 Q. And the quality of the wax used in Aunt
5 Sadie's is superior to the Christmas Tree Shops'?

6 A. Yes.

7 Q. Are there other qualities of the Aunt
8 Sadie's candle that you believe to be superior to
9 the Christmas Tree Shops'?

10 A. Our clear lid is hard acrylic; and their
11 clear lid, I call it, acetate. I'm not sure what
12 the material is.

13 Also, I think that the edges of this
14 (indicating) -- of this lid are, like, very sharp,
15 and not finished off, where ours are.

16 I think the quality of paper they use
17 on the label is different than ours, or lesser than
18 ours.

19 Q. What about the quality of design?
20 Lettering? Imaging? Content?

21 A. I don't think it is as good as ours.

22 Q. I understand you are not saying the
23 Christmas Tree Shop one is substandard? You are
24 simply telling me that it is inferior to yours?

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1 recognize the plaintiffs as the source of products
2 that have been copied by Christmas Tree Shops." Do
3 you see that?

4 A. Yes.

5 Q. Do you believe that Christmas Tree Shops
6 has deliberately copied your candle?

7 A. I don't think I have the knowledge to
8 answer that.

9 Q. That's what I was getting at. As far as
10 the intention of the designers at Christmas Tree
11 Shops --

12 A. I don't know that.

13 Q. -- you have no basis, for at least right
14 now, saying that you believe that they intended to
15 do it?

16 A. No.

17 Q. And Paragraph 30, on the next page, please.

18 "As a direct and proximate result of
19 this unauthorized copying, plaintiffs" -- which
20 includes Aunt Sadie's -- "have suffered injury to
21 reputation and a loss of income."

22 Do you see that statement?

23 A. Yes.

24 Q. Do you believe that is true with regard to

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1 selling it to Christmas Tree Shop. In the
2 industry, that's known as ripping off yourself, and
3 I think there are people who think that we are
4 doing that, you know, trying to make money at both
5 ends of the game.

6 Aunt Sadie's was founded under the life
7 of the Aunt Sadie's. The corporation -- she was
8 the grandmother of the other owner, Brian
9 Schnetzer, and our company has very definitely
10 informed our customers about that, and they know
11 who Aunt Sadie is, and they know what kind of
12 person that she was. We have done that in
13 marketing materials and talked to our customers.

14 So I believe that people think that we
15 are dishonoring her name by selling an inferior
16 candle to Christmas Tree Shops.

17 Q. Help me with this. This is the part I
18 don't understand.

19 How could you be worried that, on the
20 one hand, that folks think you are selling an
21 inferior product, meaning the Christmas Tree
22 candle, and tell me ten minutes ago, after I
23 prodded quite a bit, that there isn't a single
24 feature of the Christmas Tree Shop candle that you

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1 \$15, and it was the same candle and it cost the
2 same amount of money to make, then who was making
3 the money when it was selling for \$15 versus \$1.99?

4 Q. That, to me, sounds like an alternative
5 argument.

6 A minute ago you were worrying about
7 people who would conclude that the \$2 candle is
8 inferior. Now you are talking about the \$2 candle
9 is the same as the \$15 candle, and you are simply
10 making more money?

11 A. Yes.

12 Q. As to those folks, do you have any basis,
13 has anybody ever told you they believe this or has
14 drawn that conclusion?

15 A. Has anyone ever said to me, "We think Aunt
16 Sadie's is making this candle and this candle" --

17 Q. Yes.

18 A. No.

19 Q. As between the two, the people who think
20 the candle is inferior and the people who don't but
21 just think you are making more money, do you have
22 any sense of which is the bigger threat to your
23 reputation out there?

24 A. I think they are probably equal threats.

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1 COMMONWEALTH OF MASSACHUSETTS)

2 SUFFOLK, SS)

3
4 I, Deborah L. Roth, and Notary Public in and for
5 the Commonwealth of Massachusetts, do hereby
6 certify that there came before me on November 9,
7 2005, the person hereinbefore named, who was by me
8 duly sworn to the truth concerning any knowledge
9 in this cause; that that person was thereupon
10 examined under oath, and the examination reduced
11 to typewriting; and that the deposition is a true
12 record of the testimony given by the witness.

13 I further certify that I am neither related to nor
14 employed by any attorney or counsel employed by
15 the parties hereto or financially interested in the
16 action.

17 In witness whereof, I have hereunto set my hand
18 this 17th day of November 2005.

19 

20
21 DEBORAH ROTH, Notary Public

CERTIFIED ORIGINAL
LEGALINK BOSTON

22 My commission expires: 2/7/08
23
24

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JOHN KNIGHT, DONNA RUSSELL KNIGHT,
CHARLES COLE, VIIU NIILER, COUNTRY GLASS
SHOP, AUNT SADIE'S, INC., AND SUSAN BOERMAN
Plaintiffs

V.

CHRISTMAS TREE SHOPS, INC.

Defendant

**CERTIFIED ORIGINAL
LEGALINK BOSTON**

30(b)(6) Notice to Country Glass

Deposition of Viiu Niiler

Thursday, November 10, 2005

10:02 a.m.

Mintz Levin Cohn Ferris Glovsky and Popeo, PC

One Financial Center

Boston, Massachusetts

Reporter: Deborah Roth, RPR/CSR

LegalLink Boston
(617) 542-0039

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2

1 PRESENT:

2

3 Joel D. Joseph, Esq.

4 Joseph & Associates

5 7272 Wisconsin Avenue, Suite 300

6 Bethesda, Maryland 20814

7 301 941 1989

8 For the Plaintiffs

9

10 Peter A. Biagetti, Esq.

11 Carrie Kei Heim, Esq.

12 Mintz Levin Cohn Ferris Glovsky and Popeo, PC

13 One Financial Center

14 Boston, Massachusetts 02111

15 617 542 6000

16 For the Defendant

17

18 ALSO PRESENT: Kenneth Bradley, Esq.

19 Charles Cole

20

21

22

23

24

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09:58:29 1 the -- state your full name and address for the
09:58:32 2 record, please.

09:58:32 3 A. Viiu Niiler. It's 784 Pike Road,
09:58:39 4 Marshfield, Vermont 05658.

09:58:45 5 Q. And are you employed?

09:58:46 6 A. Self-employed.

09:58:49 7 Q. In what way?

09:58:50 8 A. We operate a glass shop. It's called
09:58:58 9 Country Glass Shop. We design and manufacture
09:59:04 10 glass items.

09:59:07 11 Q. When you say "we" --

09:59:10 12 A. Charles Cole and I, my partner.

09:59:15 13 Q. And are you and Mr. Cole the owners of --

09:59:21 14 A. We are the owners of Country Glass Shop.

09:59:24 15 Q. Any other employees?

09:59:25 16 A. We have one other employee, who is our
09:59:27 17 assistant in helping in packaging and doing other
09:59:33 18 maintenance work.

09:59:34 19 Q. Do you yourself design glass items?

09:59:39 20 A. We design our own glass items, yes.

09:59:42 21 Q. And, again, by "we" you mean you and --

09:59:45 22 A. And Mr. Cole together. I do most of the
09:59:47 23 graphic work, but he does a lot of the three-
09:59:51 24 dimensional work and the blown work and sculpture

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09:59:56 1 work.

09:59:57 2 So we collaborate, but -- we

09:59:59 3 essentially collaborate on every piece, but I am
10:00:01 4 the main designer for the leaf work that we do.

10:00:04 5 Q. You two make and manufacturer the pieces
10:00:07 6 that are sold?

10:00:08 7 A. That's correct. We make and manufacturer.

10:00:10 8 Q. Anybody else that participates in the
10:00:13 9 design or the manufacture of your glass creations?

10:00:16 10 A. No. Just the two of us.

10:00:18 11 Q. And is the Country Glass Shop also a retail
10:00:22 12 outlet?

10:00:22 13 A. It is a -- let's see -- a summer retail
10:00:32 14 operation. During the winters, we don't get --
10:00:35 15 have winter retail, but summer retail.

10:00:38 16 Q. When you say "summer retail," for how many
10:00:40 17 weeks of the year is it open?

10:00:42 18 A. I would say for 16 weeks of the year, and
10:00:53 19 the rest is --

10:00:56 20 Q. Let's just talk about the summer retail for
10:00:59 21 a couple of minutes, that is, at the shop in
10:01:01 22 Marshfield.

10:01:02 23 A. That's correct.

10:01:05 24 Q. And can you briefly describe the physical

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01:09 1 appearance of the shop itself?

10:01:11 2 A. We operate out of a farm that has been
10:01:18 3 renovated that is probably 150 years old. We have
10:01:23 4 our home; and across the road we have a set of
10:01:31 5 barns, three barns, which have been renovated into
10:01:34 6 three studios: one is the glass shop studio; one
10:01:39 7 is my art work studio; and another for welding and
10:01:48 8 carpentry.

10:01:50 9 MR. COLE: Fabrication.

10:01:53 10 A. A fabrication studio.

10:01:55 11 We basically have brought these
10:01:57 12 buildings up from the ashes, and we built this.

10:02:01 13 We are on a Class 4 road. It's a back
10:02:04 14 road. It's a place where people have to go out of
10:02:06 15 their way to find us, but we have a reputation for
10:02:09 16 being there for such a long time that we've --
10:02:13 17 people come back during summer months, during their
10:02:16 18 vacations, and visit us.

10:02:18 19 That's how we -- that's -- that's what
10:02:21 20 it is like out there.

10:02:22 21 Q. When you say people come back, do you mean
10:02:24 22 that some portion of the customers of the shop
10:02:29 23 itself are repeat customers?

10:02:31 24 A. Yes. We have many repeat customers, yes.

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02:33 1 Q. Would you say that the bulk of the business
10:02:36 2 is out of the shop?

10:02:36 3 A. That's correct.

10:02:37 4 Q. Is repeat customers?

10:02:38 5 A. Repeat customers.

10:02:40 6 Now we are into -- 30 years ago we
10:02:43 7 started this business. We had people coming to
10:02:46 8 visit us then, and now we are into their
10:02:48 9 grandchildren.

10:02:50 10 So it's just a very sort of isolated
10:03:00 11 sweet country business where people in Vermont or
10:03:05 12 outsiders from Vermont like to come to these back
10:03:08 13 road settings.

10:03:09 14 Q. So besides being loyal customers, how else
10:03:13 15 would you describe them? Are they people who are
10:03:14 16 knowledgeable about glasswork?

10:03:16 17 A. Well, part of our project has been to
10:03:23 18 introduce -- 30 years ago, there weren't many glass
10:03:26 19 -- home glassmakers around or small glass shops,
10:03:32 20 and we were one of the first ones in the area, and
10:03:38 21 part of our project was when Chet received a Ford
10:03:44 22 grant, the idea that he would come back to the
10:03:48 23 community and educate our community about
10:03:54 24 glassblowing, glassmaking, and he has done that

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08:49 1 one more minute.

10:08:50 2 You said it was on a back road. About

10:08:52 3 how far away is the nearest retail outlet?

10:08:56 4 A. 20 miles.

10:09:03 5 Q. Do you have any idea how far away the

10:09:07 6 nearest Christmas Tree Shop is?

10:09:10 7 A. 60.

10:09:10 8 Q. Where's that?

10:09:11 9 A. Burlington.

10:09:17 10 Q. Do you sell in the shop any glass creations

10:09:29 11 by anyone other than you and Mr. Cole?

10:09:31 12 A. No.

10:09:32 13 Q. And in your wholesale operation, do you

10:09:36 14 sell any creations by anyone other than you and

10:09:39 15 Mr. Cole?

10:09:39 16 A. No.

10:09:46 17 Q. My understanding is that you sell a lot --

10:09:52 18 let me show you what has been previously marked as

10:09:56 19 plaintiffs' Exhibit 7.

10:10:00 20 Do you recognize that?

10:10:01 21 A. Yes, I do.

10:10:02 22 Q. What is that?

10:10:03 23 A. It's a Nantucket basket with hydrangea.

10:10:07 24 Q. Created by?

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10:08 1 A. Myself.

10:10:09 2 Q. This particular one has a hole in it.

10:10:13 3 What's the reason for that?

10:10:14 4 A. It's meant -- it's a sun catcher. It's
10:10:18 5 meant for hanging in the window.

10:10:20 6 Q. When I talk about the sun catcher, let's
10:10:22 7 agree this is what I am talking about.

10:10:24 8 A. That's correct.

10:10:28 9 Q. I understand you sell this sun catcher at
10:10:32 10 the store in Nantucket called Hill's Gallery?

10:10:34 11 A. Yes.

10:10:34 12 Q. In fact, some large number of sun catcher
10:10:38 13 you sell is out of that gallery, right?

10:10:40 14 A. Yes. Yes.

10:10:42 15 Q. Approximately --

10:10:43 16 A. I would say -- what I had done is -- I gave
10:10:46 17 you a number of -- 90 percent of this is sold on
10:10:50 18 Nantucket, of my total figures.

10:10:52 19 Q. When you say "this," you are talking about
10:10:55 20 this hanger that is Exhibit 7?

10:10:58 21 A. The hanger, and I make three products out
10:11:02 22 of the same mold, and this is just one. This same
10:11:07 23 mold is used for three different products.

10:11:09 24 Q. The hanger --

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:11:10 1 A. The hanger, and there is a plate that is
10:11:13 2 made out of --a small plate and a cheese server
10:11:16 3 that is made out of same mold.

10:11:18 4 Q. Very briefly, as I understand it, one of
10:11:21 5 the differences in the cheese plate is that it has
10:11:23 6 a curled handle?

10:11:25 7 A. That's correct, uh-huh, yeah.

10:11:26 8 Q. What are differences in the design of the
10:11:29 9 small plate?

10:11:30 10 A. This mold, when it's pressed out, it's
10:11:38 11 slumped into a mold that has a plate shape, and it
10:11:42 12 sort of slumps down into it and have sides that
11:46 13 turn up.

10:11:47 14 Q. The edges of the plates are curved?

10:11:49 15 A. Uh-huh, yes.

10:11:50 16 Q. What about the surface of the plate --

10:11:52 17 A. It's going -- it's -- it would be like this
10:11:54 18 (indicating).

10:11:54 19 Q. For the record, you mean that it's smooth?

10:11:58 20 A. It's smooth on the plate side.

10:11:59 21 Q. And the basket and hydrangea are visible
10:12:02 22 from under --

10:12:05 23 A. Underneath the surface.

10:12:09 24 Q. If you can wait until my question is

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13:19 1 So it's -- the cheese plate goes from
10:13:21 2 12 to 14 inches.

10:13:24 3 Q. Any differences in dimension between the
10:13:26 4 plate and the sun catcher?

10:13:28 5 A. The plate is slightly larger. Maybe nine
10:13:32 6 inches.

10:13:32 7 Q. As opposed to the sun catcher, which is
10:13:34 8 eight?

10:13:35 9 A. It was about eight, yes.

10:13:36 10 Q. Back to Hill's Gallery.

10:13:42 11 Have you visited Hill's?

10:13:44 12 A. No. We have never visited Hill's Gallery.

10:13:51 13 Q. So all you know about its location and
10:13:54 14 appearance is that it is on the Island of
10:13:59 15 Nantucket.

10:14:00 16 A. Its address is Four Straight Wharf, which
10:14:03 17 is just about where the boats all come in, is the
10:14:06 18 way understand it.

10:14:07 19 It's a very small gallery. Part of it
10:14:12 20 is devoted to Greg Hill's work. He is an artist.
10:14:17 21 He is a painter. And part of it is devoted to
10:14:24 22 other craft items and art items like what we make.

10:14:31 23 Q. Has Hill's Gallery been an outlet for your
10:14:35 24 creations for some time?

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10:15:50 1 A. That would be the same, 21 years.

10:15:53 2 THE WITNESS: You were correct.

10:15:55 3 Q. Do you know anything through Judi or
10:16:00 4 Mr. Hill about the customers that frequent Hill's
10:16:04 5 Gallery in terms of whether they are sort of repeat
10:16:06 6 customers?

10:16:07 7 A. Yes, they are. She has lots of repeat
10:16:11 8 customers.

10:16:11 9 Q. Also they're discerning --

10:16:14 10 A. And part of our job with her is to create
10:16:18 11 new things for her. That's part of what we do with
10:16:21 12 her.

10:16:22 13 She has people come back, and they are
10:16:25 14 looking for something new, and we have done that
10:16:27 15 for many, many years.

10:16:28 16 This is just one of the things we
10:16:30 17 created for her.

10:16:36 18 Q. Okay. Let's talk a little bit about the
10:16:43 19 wholesale side of the business, if that's the
10:16:46 20 correct word.

10:16:46 21 A. Okay.

10:16:47 22 Q. Is that right? To whom do you sell in the
10:16:50 23 wholesale operation?

10:16:51 24 A. Let's see. You're looking area wide?

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16:58 1 Q. Other than selling at your shop in

10:17:02 2 Vermont --

10:17:02 3 A. Yeah.

10:17:02 4 Q. -- and at the Hill's Gallery in

10:17:06 5 Nantucket --

10:17:06 6 A. Nantucket.

10:17:07 7 Q. -- how else do you sell your creations?

10:17:10 8 A. We have -- we run usually about anywhere
10:17:18 9 from 75 to a hundred wholesale accounts. They are
10:17:27 10 mostly on the East Coast. Mostly on the East
10:17:33 11 Coast, and a lot of it is in the Boston area and
10:17:36 12 the Cape area.

10:17:38 13 We had many -- we have excellent sales
10:17:41 14 here, and one of our major customers for 25 years
10:17:46 15 has been the Museum of Fine Arts. So we have done
10:17:50 16 tremendous business with them as well as Glass Eye
10:17:57 17 and we have Hill's.

10:18:01 18 We had a shop in Martha's Vineyard, and
10:18:04 19 then other shops within -- do you want more
10:18:09 20 specific names?

10:18:10 21 Q. You are helping me a lot by giving me what
10:18:12 22 I think are the specific ones where you do a lot of
10:18:16 23 selling.

10:18:16 24 A. Yeah, a lot of selling.

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18:17 1 Q. If you could do the top five for me.

10:18:19 2 MFA. Would Glass Eye be right up
10:18:25 3 there?

10:18:25 4 A. Yes.

10:18:26 5 Q. Any others --

10:18:27 6 A. Hill's and Glass Eye, Vermont Shop closed
10:18:31 7 down this year, but they used to do very well.

10:18:33 8 Q. Vermont Shop?

10:18:34 9 A. Vermont Shop in Edgartown.

10:18:36 10 Q. Is that where Vermont Shop is?

10:18:39 11 A. Yes. It's a place called Vermont Shop in
10:18:44 12 Edgartown.

18:45 13 Q. Of course.

10:18:48 14 A. Then Potted Geranium is in this area. New
10:18:59 15 England Goods.

10:19:01 16 Q. That's plenty.

10:19:02 17 A. Anyways, that's all on...

10:19:06 18 Q. So Potted Geranium, are they located
10:19:10 19 somewhere in the Boston area?

10:19:11 20 A. In the Boston area, also, and then there's
10:19:13 21 New England Goods is in the Boston area.

10:19:17 22 Until a few years ago, we spent a good
10:19:21 23 part of our efforts working for the MFA, but they
10:19:27 24 have -- they went bankrupt a couple of years ago,

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22:25 1 A. Mitchell.

10:22:40 2 MR. COLE: Vincent Mitchell.

10:22:43 3 Q. The same question about Vincent Mitchell,
10:22:48 4 had he been dealing with you for many years?

10:22:50 5 A. He is a shop we have been dealing with,
10:22:52 6 also, probably 25 years. They were originally
10:22:55 7 owned by a couple called the Bradley -- the
10:23:09 8 Bradleys.

10:23:09 9 Q. Is Mr. Mitchell someone you would describe
10:23:13 10 as a discerning educated consumer --

10:23:17 11 A. Yes. Yes. Yes.

10:23:17 12 Q. Remember, you are going to wait for me to
10:23:19 13 finish my question.

10:23:20 14 -- a consumer and educated consumer of
10:23:24 15 glassworks?

10:23:24 16 A. I think so. I never met him. I can't say,
10:23:27 17 but he was somebody that picked up from our
10:23:30 18 previous owners, and he always did well, yes. So I
10:23:35 19 think he -- yes, I would say so.

10:23:38 20 Q. You have spoken to him over the years?

10:23:39 21 A. I have spoken to him over the last five
10:23:41 22 years.

10:23:41 23 Q. Do you know anything about his background
10:23:43 24 in glasswork?

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:23:45 1 A. I don't know anything about him.

10:23:46 2 Q. How about the Potted Geranium, do you know
10:23:50 3 who the person is that you dealt with there?

10:23:51 4 A. I don't have her name. I don't have her
10:23:58 5 name.

10:23:59 6 Q. Do you know anything about her familiarity
10:24:01 7 with your products?

10:24:11 8 A. I don't know her shop. I don't know what
10:24:13 9 it looks like.

10:24:15 10 Q. How long has she been buying from you?

10:24:18 11 A. Ten years.

10:24:22 12 Q. And New England Goods, who is the contact
24:25 13 there?

10:24:25 14 A. McDonald -- O'Donnell.

10:24:35 15 MR. COLE: Is it Jeff?

10:24:37 16 THE WITNESS: I don't know.

10:24:38 17 Q. Mr. or Ms.?

10:24:40 18 A. Let me come back to that. I will think of
10:24:46 19 her name in a minute.

10:24:48 20 Q. Is Ms. O'Donnell someone you have dealt
10:24:51 21 with for many years?

10:24:52 22 A. Yes.

10:24:53 23 Q. How many?

10:24:53 24 A. I want to say at least 15 years, but I

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10:24:56 1 would have to look it up again.

10:24:57 2 Q. Again, is Ms. O'Donnell another discerning
10:25:02 3 educated consumer of glassworks?

10:25:05 4 A. Yes. Yes. Yep.

10:25:08 5 One more thing, Boston Pewter down here
10:25:13 6 in Faneuil Hall. He has been down here forever.

10:25:18 7 Q. Who is "he"?

10:25:19 8 A. Jeff Allen.

10:25:21 9 Q. Mr. Allen has been with you for how long?

10:25:24 10 A. 25 years. But I am going to verify these
10:25:30 11 numbers for you. I am not going to swear to them.

10:25:33 12 Q. This is close enough for me.

10:25:34 13 Is Mr. Allen also someone who strikes
10:25:37 14 you as a discerning consumer of glassworks?

10:25:40 15 A. Yes.

10:25:40 16 Q. Just as a rough percentage, not in terms of
10:25:43 17 total numbers, okay, in over the last three years,
10:25:50 18 what percentage of total wholesale sales by you are
10:25:57 19 represented by these sort of longstanding clients
10:26:00 20 that you have mentioned today, in total: MFA,
10:26:03 21 Glass Eye, Vermont Shop, Potted Geranium, New
10:26:09 22 England Goods and Boston Pewter?

10:26:10 23 If you took all their sales together as
10:26:13 24 a percentage of your total wholesale, would it

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10:47:38 1 Q. I am going to come back to some of those
10:47:40 2 identifying features in a minute, but now that you
10:47:44 3 have told me that -- flip back a page to the
10:47:49 4 features that are mentioned here in the complaint
10:47:54 5 -- and just let me make sure the size of your sun
10:47:59 6 catcher is not one of the features that you think
10:48:02 7 identifies you as the source; is that right?

10:48:05 8 A. It's not the most important one. It's not
10:48:08 9 the most important. But it's pretty standard. But
10:48:13 10 it's not the most important feature.

10:48:16 11 Q. When you say the size is pretty standard --

10:48:18 12 A. It's pretty standard.

48:20 13 It will vary anywhere from seven and a
10:48:25 14 half to nine or eight inches. So size, because it
10:48:28 15 is a pre-form press piece, it will vary slightly in
10:48:34 16 size. It's not an exact -- it's not an exact size
10:48:39 17 always.

10:48:40 18 Q. Okay. Whatever size your creations turn
10:48:44 19 out to be for the sun catcher --

10:48:45 20 A. Yeah.

10:48:45 21 Q. -- are you telling me size is one of the
10:48:48 22 things that these consumers recognize as
10:48:51 23 identifying the sun catcher as one created by you?

10:48:54 24 A. I would say that, yes, this size of a sun

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10:50:07 1 Q. By the way, does the sun catcher have a
10:50:10 2 function?
10:50:11 3 A. It's ornamental. It's to dress your
10:50:16 4 window.
10:50:18 5 Q. To dress your window. How does it get
10:50:21 6 mounted?
10:50:22 7 A. It's usually hung on some sort of a spring
10:50:27 8 or monofilament, and it is hung from some window
10:50:34 9 structure. It's essentially to bring pleasant
10:50:42 10 sunshine through a piece of colored glass into your
10:50:45 11 window.
10:50:45 12 Q. Fair enough.
10:50:46 13 A. Yes.
10:50:47 14 Q. Does the size of this sun catcher, Exhibit
10:50:50 15 7, help to fulfill that function?
10:50:52 16 A. Yes.
10:50:52 17 Q. How?
10:50:52 18 A. I think it makes a larger impact than a
10:50:57 19 smaller piece. It makes a nice impact, yes.
10:51:03 20 Q. Let's go to color. I think the document
10:51:06 21 says, "cobalt blue," which indeed sun catcher No. 7
10:51:11 22 is.
10:51:12 23 First of all, do you create any sun
10:51:17 24 catchers of the size of Exhibit 7 in any other

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51:22 1 colors other than cobalt blue?

10:51:24 2 A. Yes.

10:51:24 3 Q. Do you create any sun catcher with the
10:51:27 4 hydrangea in basket in any other colors than cobalt
10:51:33 5 blue?

10:51:33 6 A. Yes.

10:51:33 7 Q. What other colors?

10:51:35 8 A. We create them in seven different colors:
10:51:39 9 a gold, a red, a rose, aqua, green, purple. What
10:51:57 10 did I leave out?

10:51:58 11 Q. Good enough.

10:52:01 12 A. And blue.

10:52:02 13 Q. Of the hydrangea version?

10:52:07 14 A. Yes.

10:52:08 15 Q. Do the colors help to meet the function of
10:52:12 16 the sun catcher?

10:52:13 17 A. Absolutely.

10:52:14 18 Q. How is that?

10:52:16 19 A. As we all know, everyone has their favorite
10:52:18 20 color, and often it is purchased to complement
10:52:25 21 something in a household, the coloring of a
10:52:27 22 household or someone's personal color, sort of
10:52:33 23 choices that they love.

10:52:35 24 Q. Given that it comes in seven colors, is

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52:39 1 there anything in particular about the cobalt blue
10:52:44 2 color that customers would recognize as a
10:52:46 3 signature; that is, if you see cobalt blue, it must
10:52:50 4 be Country Glass?

10:52:51 5 A. Cobalt is a favorite color. Our favorite
10:52:57 6 one is -- it is the color that we sell the most of
10:53:01 7 in this sun catcher. That's everybody's favorite
10:53:06 8 color in that.

10:53:07 9 Q. Besides being a popular color, let me come
10:53:10 10 back to that signature notion.

10:53:12 11 A. Yes.

10:53:13 12 Q. Is the fact that a sun catcher is cobalt
10:53:18 13 blue one of those features that you think tips
10:53:21 14 people off that must be a Country Glass sun catcher
10:53:26 15 or not?

10:53:26 16 A. Boy, that's a hard one.

10:53:29 17 MR. JOSEPH: If you don't know.

10:53:35 18 A. I can't say. Country Glass cannot make a
10:53:42 19 claim to owning -- ownership to cobalt blue.
10:53:46 20 Cobalt blue is a favorite glass color always for
10:53:50 21 all glassmakers.

10:53:52 22 Q. Fair enough.

10:53:52 23 A. That's all I can say.

10:53:54 24 Q. That's all I can ask for.

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53:57 1 A. We can't make claim to owning cobalt blue.

10:54:01 2 Q. Let's move to the next feature, the design
10:54:04 3 of hydrangea in the Nantucket basket. Do you see
10:54:10 4 that?

10:54:10 5 A. Yes.

10:54:11 6 Q. Do you create the sun catcher of the size
10:54:13 7 of Exhibit 7 with other designs other than the
10:54:17 8 hydrangea in the Nantucket basket?

10:54:22 9 A. I create many of these designs, yes.

10:54:26 10 I think those are pictured in the
10:54:28 11 catalogue I gave you. We do lots of those. I have
10:54:32 12 many, many designs.

10:54:33 13 Q. Can you put a number around many, many, at
10:54:36 14 least in the sun catcher of the size of Exhibit 7?

10:54:40 15 A. I would say I probably have, over the
10:54:48 16 years, I have, probably have created 50 of these
10:54:52 17 this sized sun catcher.

10:54:55 18 Q. 50 different designs?

10:54:56 19 A. Yes.

10:54:57 20 Q. Not all of those were in cobalt blue?

10:55:01 21 A. Yes.

10:55:02 22 Q. How many?

10:55:04 23 A. For example, I don't make the sun mold in
10:55:12 24 cobalt blue. That's done in red or yellow.

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10:55:16 1 Mostly, every design I make has a --
10:55:22 2 people want in cobalt, yes. We always do.

10:55:25 3 Q. Most of the --

10:55:26 4 A. For most of the them, we make cobalt, yes.

10:55:31 5 Q. Again, just focusing on this particular
10:55:34 6 design of the hydrangea in the basket, could you
10:55:38 7 say that that design is a signature of Country
10:55:43 8 Glass so that when someone sees the sun catcher
10:55:46 9 with the hydrangea in the basket that's one of the
10:55:50 10 ways they know its source is Country Glass?

10:55:54 11 A. I do, yes. Yeah.

10:55:56 12 Q. Does the design of the hydrangea in the
10:56:02 13 basket help to meet the function of the sun
10:56:05 14 catcher?

10:56:05 15 A. It's -- I would say it is a regional design
10:56:27 16 that people love. Nantucket basket is a very
10:56:32 17 popular sort of warm-hearted image, and putting a
10:56:39 18 bunch of flowers in it is just a -- how would you
10:56:47 19 say that? It's something -- it's something that
10:56:53 20 people -- they are just drawn to the idea of it.
10:56:56 21 So I would say that's the -- it just has an appeal.

10:57:02 22 Q. And how about the next feature here that we
10:57:07 23 have, D, which is the single hole in the top for
10:57:10 24 hanging?

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10:57:11 1 First of all, does that help meet the
10:57:13 2 function of the sun catcher?

10:57:14 3 A. Yes.

10:57:14 4 Q. In fact, is it fair to say you couldn't
10:57:16 5 hang it without a hole?

10:57:17 6 A. You can't hang it without a the hole.

10:57:20 7 Q. Is the hole one of the signatures --

10:57:22 8 A. Yes.

10:57:23 9 Q. So you are saying when people see a sun
10:57:26 10 catcher with a hole in it, that's another way that
10:57:28 11 they know that that sun catcher came from Country
10:57:32 12 Glass?

10:57:32 13 A. I would say yes. We developed a way of
10:57:35 14 cutting that hole that I think is unique, and yes,
10:57:38 15 I would say yes.

10:57:40 16 Q. The appearance of the hole is yet another
10:57:43 17 signature of the sun catcher?

10:57:44 18 A. Yes.

10:57:45 19 Q. Finally, texture is listed here in the
10:57:48 20 complaint.

10:57:48 21 A. Yes.

10:57:49 22 Q. Would you say that the texture is one of
10:57:53 23 the features that helps to meet the function of the
10:57:56 24 sun catcher?

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57:56 1 A. Yes, it does.

10:57:57 2 Q. How?

10:57:59 3 A. I think that the way the light hits the
10:58:04 4 texture of the design is what makes the image
10:58:10 5 brilliant and vivid.

10:58:12 6 Q. I take it that that negative carving
10:58:15 7 technique and the sharp lines that you talked about
10:58:18 8 before, is that technique one of the ways that that
10:58:22 9 texture is enhanced --

10:58:24 10 A. Exactly, yeah.

10:58:25 11 Q. Would you say that the texture of the sun
10:58:30 12 catcher is another one of those features that is a
10:58:33 13 signature of Country Glass?

10:58:35 14 A. Yes, I do.

10:58:45 15 MR. JOSEPH: You want to take a break?

10:58:52 16 (A recess was taken from

10:58:55 17 10:58 to 11:07 a.m.)

11:07:53 18 Q. Let me mark this document as the next
11:08:29 19 exhibit.

11:08:45 20 EXHIBIT NO. 3 MARKED

11:08:51 21 Q. Ms. Niiler, I marked as Exhibit 3 --

11:09:07 22 A. Okay.

11:09:08 23 Q. -- a document of sales figures, which I
11:09:11 24 believe you prepared for us; is that right?

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45:09 1 A. I don't know that I can think of any at the
11:45:18 2 moment.

11:45:19 3 Q. Let's get back to the two sun catchers.

11:45:23 4 Again, calling your attention to the
11:45:26 5 statement at Paragraph 28 about the Christmas Tree
11:45:30 6 sun catcher being inferior to yours in
11:45:34 7 craftsmanship and appearance, having viewed the
11:45:37 8 two, do you still believe that to be a true
11:45:40 9 statement?

11:45:40 10 A. I think so. It's -- yes, I do. I think
11:45:49 11 it's -- yes.

11:45:51 12 Q. Okay. Can you explain for me briefly the
11:45:55 13 ways in which the Christmas Tree sun catcher is
11:45:58 14 inferior to yours in appearance?

11:46:02 15 A. My guess that this (indicating) has been
11:46:30 16 pressed into a steel mold, perhaps.

11:46:32 17 Q. By "this," you mean the Christmas Tree Shop
11:46:35 18 version?

11:46:35 19 A. Yes. It's sort of a copy pressed into a
11:46:39 20 steel mold, which looks very rigid. The -- the
11:46:43 21 glass is poured into it -- these marks (indicating)
11:46:51 22 indicate that the mold is cold when it was poured
11:46:56 23 in, it wasn't heated up properly.

11:46:59 24 Q. You are pointing to the marks that are on

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11:47:01 1 the outside?

11:47:01 2 A. The orange peel, and that's create by the
11:47:07 3 mold not being properly heated up, and the other
11:47:11 4 surface, which in our case is very smooth.

11:47:14 5 This (indicating) is what we call
11:47:18 6 orange peel. It means the molds are not heated up
11:47:23 7 properly, and it's full of bubbles, and I would say
11:47:34 8 -- I am guessing these were somehow placed -- they
11:47:44 9 were recopied into a steel mold, is the best way,
11:47:47 10 but I'm not sure.

11:47:48 11 That's what I think happened. It just
11:47:50 12 -- it has a sort of a very rigid style, but the
11:48:03 13 essence of the mold is the same. It's just --

11:48:07 14 Q. Focusing on the appearance --

11:48:08 15 A. The appearance, yeah.

11:48:10 16 Q. -- are there any other ways in which the
11:48:12 17 appearance of the Christmas Tree sun catcher in
11:48:16 18 design or workmanship is inferior to the Country
11:48:23 19 Glass --

11:48:23 20 A. I would say that is it.

11:48:24 21 Q. And quite apart from appearances that are
11:48:27 22 inferior, are there any other differences in
11:48:29 23 appearance that are apparent to you between the
11:48:34 24 Christmas Tree Shop version and the Country Glass?

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11:48:37 1 A. Well, the only thing I was saying is this
11:48:47 2 carved. It is carved, I am guessing, a steel mold.

11:48:51 3 Q. How does that translate to appearance?

11:48:54 4 A. The lines are very flat and rigid. They
11:49:03 5 don't have a flow to them. That would be my major
11:49:07 6 differentiation.

11:49:11 7 Q. Let me see if I got all of the ones you
11:49:15 8 mentioned.

11:49:15 9 The orange peel quality to the outer
11:49:20 10 edge of the front and back?

11:49:21 11 A. Yes.

11:49:21 12 Q. The fact that the Christmas Tree Shop sun
11:49:23 13 catcher is, in your words, full of bubbles?

11:49:26 14 A. Yes.

11:49:26 15 Q. And, finally, the fact that the lines in
11:49:29 16 the Christmas Tree Shop sun catcher are flat and
11:49:34 17 rigid?

11:49:35 18 A. Yes.

11:49:35 19 Q. Is it fair to say that all three of those
11:49:38 20 features are not ones that any of your customers
11:49:41 21 would ever associate with a Country Glass creation?

11:49:46 22 A. I would say no.

11:49:49 23 I have often people come up to me and
11:49:52 24 say that I saw a sun catcher, it looked like yours,

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:49:56 1 but it had -- the carving was shallow, rigid, not
11:50:03 2 -- didn't have a flow to it, and it looked like
11:50:06 3 somebody was trying to copy you, but...

11:50:09 4 Q. But they didn't?

11:50:10 5 A. They didn't. They didn't get it.

11:50:12 6 Q. Did any of those folks tell you that the
11:50:15 7 copy they had in mind was the Christmas Tree Shop
11:50:17 8 version?

11:50:18 9 A. No. I have had -- over the years, I have
11:50:23 10 people, like, make copies of the little ones we
11:50:27 11 make.

11:50:27 12 Q. Of the smaller sun catcher?

50:28 13 A. Yeah.

11:50:29 14 Q. Have you ever been involved in a lawsuit
11:50:32 15 over your designs before this one?

11:50:35 16 A. Nope.

11:50:36 17 Q. Have you ever sought to get any kind of
11:50:39 18 registered protection --

11:50:42 19 A. Copyright.

11:50:43 20 Q. -- for any of your designs?

11:50:44 21 A. We are in the process of doing that. We
11:50:48 22 have been -- not been preoccupied with that, but we
11:50:50 23 will have to be, yes.

11:50:51 24 Q. Have you ever done that for the sun

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50:54 1 catcher?

11:50:54 2 A. Yes. Yes.

11:50:55 3 Q. You have sought that protection?

11:50:56 4 A. Yes.

11:50:57 5 Q. When did you begin that process?

11:50:59 6 A. About a month ago.

11:51:01 7 Q. Prior to the bringing of this lawsuit, had
11:51:04 8 you obtained any kind of protection for any of your
11:51:08 9 other products?

11:51:12 10 A. What I do is carve our logo in our molds,
11:51:17 11 but I don't have it on this one.

11:51:19 12 Q. You did --

51:21 13 A. We have done that. We put our little logo
11:51:23 14 marking in your molds.

11:51:25 15 Q. You did that carving of the logo in
11:51:28 16 creations before the sun catcher; is that right?

11:51:29 17 A. Yes.

11:51:30 18 Q. What does the logo look like?

11:51:33 19 A. It also is like this (indicating).

11:51:36 20 Q. I am going to give you a piece of paper to
11:51:38 21 draw --

11:51:39 22 A. This is our logo (indicating). It's a V
11:51:47 23 and C.

11:51:47 24 EXHIBIT NO. 4 MARKED

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11:52:01 1 Q. So Exhibit 4 is the logo you carved in many
11:52:08 2 of your creations, not the sun catcher?

11:52:08 3 A. Not the sun catcher.

11:52:08 4 Q. Did you carve it in the plates or cheese --

11:52:11 5 A. No. This is the same mold for that I have
11:52:13 6 the sun catcher. It is not done in that either.

11:52:13 7 Q. Did you have something you wanted to add to
11:52:15 8 the answer from before?

11:52:17 9 A. Well, sometimes it -- Chet has another
11:52:21 10 version of it. Sometimes it looks like this
11:52:26 11 (indicating). It depends. Sometimes it goes like
11:52:34 12 that. In essence, it looks like this (indicating)
11:52:42 13 and sometimes looks like this (indicating).

11:52:43 14 Q. Even the second version of the logo on
11:52:46 15 Exhibit 4 has not been carved into the sun catcher
11:52:50 16 mold?

11:52:50 17 A. That's correct.

11:52:53 18 Q. After you got the reports about the
11:53:07 19 Christmas Tree Shop sun catcher, did you or anybody
11:53:11 20 else affiliated with Country Glass go into
11:53:17 21 Christmas Tree Shop to see their sun catcher?

11:53:19 22 A. We are out of the area. We are in Vermont,
11:53:23 23 and we would have to travel all the way to the Cape
11:53:25 24 for this, but we -- my brother -- I sent my brother

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57:49 1 of earned income other than what comes from your
11:57:51 2 creations in the glass shop?

11:57:53 3 A. We earn money in the glass shop. I still
11:57:58 4 sell artwork, my paintings. We have -- we
11:58:06 5 essentially have a small farm business.

11:58:09 6 We have lots of little things together,
11:58:13 7 but the glass shop is what supports most of our --
11:58:17 8 whatever we do. That's our most important
11:58:20 9 dependant -- that's what we depend on.

11:58:23 10 Q. I am going to take you back to the costs of
11:58:28 11 producing the sun catcher.

11:58:33 12 First of all, what do you sell the sun
11:58:36 13 catcher for, Exhibit 7?

11:58:37 14 A. We wholesale it at \$9.

11:58:43 15 Q. And how much do you sell it for in the
11:58:45 16 shop?

11:58:46 17 A. In the shop, retail, it sells for \$18. Out
11:58:52 18 in the market, open market, it sells anywhere from
11:58:56 19 \$18 to \$25 from retail outlets.

11:59:03 20 Q. Do you know what Hill's sells it for?

11:59:05 21 A. I am guessing it would be in the \$25 range,
11:59:09 22 but I would have to ask her.

11:59:10 23 Q. That's the Nantucket markup?

11:59:13 24 A. It's the Nantucket markup. She has rent.

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12:03:15 1 with regard to injury to reputation.

12:03:18 2 Can you explain to me in what ways, if
12:03:21 3 any, the reputation of the Country Glass Shop has
12:03:26 4 suffered as a result of the Christmas Tree Shop
12:03:29 5 product?

12:03:30 6 A. Artist reputation.

12:03:44 7 I don't know. It's my -- when you
12:03:52 8 create an art product, it just -- it's just a bad
12:03:59 9 idea to have somebody copy it. They could have
12:04:07 10 taken it and changed it. It's so easy to do.

12:04:12 11 Q. But with regard to the sun catcher that we
12:04:17 12 have marked as Exhibit 8, do you know of anybody,
12:04:22 13 as you sit here today, that thinks that Exhibit 8
12:04:25 14 was ever created by you?

12:04:26 15 A. No. I don't think so. That would be --
12:04:29 16 no. They have a different style.

12:04:37 17 Q. So you have a concern understandably about
12:04:40 18 confusion, but not a particular case report from a
12:04:44 19 customer that you can point to as you sit here
12:04:47 20 today that's actually --

12:04:49 21 A. See, I'm not in touch with the customers
12:04:54 22 that buy this. These are not the kind of people
12:04:57 23 that come to our shop.

12:04:58 24 Q. Meaning the Christmas Tree version?

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12:05:00 1

A. Yes.

12:05:02 2

Q. Expand on that. What kind of people come

12:05:04 3

to Christmas Tree Shops?

12:05:05 4

A. There is this -- there is a movement to

12:05:10 5

protect the American -- the craftsman in this

12:05:14 6

country from Chinese imports, and they would like

12:05:19 7

to see that happen, the people that created -- they

12:05:22 8

are innovative.

12:05:23 9

They have been creative. They have

12:05:26 10

small businesses. They are all around the country,

12:05:28 11

and they worked very, very hard to create craft

12:05:34 12

organizations, art organizations, to make

12:05:37 13

themselves a living that's sort of viable, and that

12:05:42 14

they can be part of the art world and create

12:05:44 15

something beautiful for their neighbors and friends

12:05:48 16

to appreciate, and they want to have that

12:05:51 17

lifestyle --

12:05:53 18

Q. So are those artisans --

12:05:56 19

A. -- that what we like.

12:05:58 20

Q. Sure.

12:05:58 21

A. All of our friends own -- we go to dinner.

12:06:04 22

They all have our plates on the table. They love

12:06:07 23

them, and they have other artisan people's work,

12:06:11 24

and they are committed to that. They are committed

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12:06:16 1 to this -- these are American crafts, beautiful
12:06:21 2 work. They have been doing this for years, and all
12:06:24 3 of a sudden, this is the undermine.

12:06:28 4 Q. So are you trying to sell your products to
12:06:32 5 the kind of people that you understand to be the
12:06:35 6 typical shopper at Christmas Tree Shops?

12:06:38 7 A. No. See, I don't know really this kind --
12:06:42 8 I don't have people coming in that say to me I just
12:06:44 9 went to the Christmas Tree Shop and bought myself a
12:06:47 10 whole pile of stuff. We don't have those kind of
12:06:49 11 people coming to our place.

12:06:51 12 Q. Understood.

12:06:53 13 A. We have people that come to our place that
12:06:55 14 appreciate and love the fact that they see us
12:06:59 15 working, doing this work, and they see the art
12:07:03 16 being made.

12:07:05 17 They appreciate it. They like it.
12:07:09 18 They have it around their house. Their children
12:07:11 19 grow up with it. Their children come back, and
12:07:16 20 when they get married, they get sets of stuff.

12:07:19 21 Q. Let me ask you this: Do you honestly
12:07:22 22 believe that any of those people are going to be
12:07:24 23 more reluctant to either come to your shop or buy
12:07:28 24 through one of your wholesale customers because

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07:32 1 Christmas Tree is selling Exhibit 8?

12:07:38 2 A. What --

12:07:39 3 Q. What do you think?

12:07:41 4 A. Well --

12:07:42 5 Q. Do you have any basis to think that that is
12:07:45 6 so?

12:07:45 7 A. They might. They might. I can't answer
12:07:49 8 that, because I am not that much in -- I am not --
12:07:57 9 I don't know what to say.

12:07:59 10 Q. You are in touch with your customers?

12:08:01 11 A. I am in touch with my customers, and I am
12:08:05 12 in touch with other craftspeople who are in our
12:08:09 13 business.

12:08:10 14 Q. I am not trying to trick you.

12:08:12 15 Confine yourself to the customers of
12:08:14 16 yours that you are in touch with. Do you think any
12:08:18 17 one of them would be any more reluctant to buy one
12:08:22 18 of your sun catchers because Christmas Tree Shop is
12:08:25 19 making a sun catcher; yes or no?

12:08:26 20 A. They might, yes.

12:08:27 21 Q. But not one you know of?

12:08:29 22 A. Not one I know of.

12:08:31 23 Q. But not one you know of?

12:08:33 24 A. Yeah.

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08:33 1 I guess I am trying to explain to you a
12:08:36 2 setting that we have that is sort of very unique,
12:08:41 3 and we have a place that's been there for many,
12:08:46 4 many, years and sort of in our area in Vermont,
12:08:49 5 it's being supported by lots of organizations.

12:08:54 6 Q. Okay. Understood. Last thing.

12:08:57 7 You mentioned when you were talking
12:08:59 8 about the Christmas Tree products and others, these
12:09:03 9 are made in China; is that right?

12:09:05 10 A. That's correct.

12:09:05 11 Q. Your understanding is that the document --
12:09:09 12 the object that we have marked as Exhibit 8, the
09:13 13 Christmas Tree sun catcher, is made in China?

12:09:15 14 A. Yes.

12:09:15 15 Q. And it is labeled that way?

12:09:16 16 A. Yes.

12:09:17 17 Q. Do you make clear in the advertising that
12:09:21 18 you do, the catalogues, et cetera, where your
12:09:25 19 products are made?

12:09:26 20 A. Yes. Yes. It's made in Vermont, and it's
12:09:30 21 handmade in Vermont.

12:09:31 22 Q. Let me show you our last couple of
12:09:36 23 exhibits.

12:09:42 24 A. I think all of those said they are made in

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12:09:47 1 Vermont.

12:09:49 2 EXHIBITS NOS. 5 AND 6 MARKED

12:10:10 3 Q. I will represent to you that these are
12:10:23 4 copies of color documents that you produced us in
12:10:29 5 advance of the deposition, and let me draw your
12:10:32 6 attention first to Exhibit 5, the one with the
12:10:37 7 teapots on the top.

12:10:38 8 Do you recognize where this particular
12:10:39 9 page came from?

12:10:40 10 A. Yes, I do.

12:10:42 11 Q. Where --

12:10:43 12 A. From an MFA catalogue.

12:10:50 13 Q. And the sun catchers that are identified
12:10:54 14 there as leaf sun catchers from your shop?

12:10:59 15 A. That's correct.

12:11:00 16 Q. And I notice that it says these are hand-
12:11:03 17 stamped onto recycled glass by American artists.
12:11:09 18 Do you see that?

12:11:10 19 A. Yes.

12:11:10 20 Q. Is that the kind of description that you
12:11:13 21 include in all the catalogues in which your
12:11:18 22 products are featured?

12:11:19 23 A. Yes. But I just want to say one thing.

12:11:24 24 Q. Sure.

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11:24 1 A. It used to be -- they used to say "Vermont
12:11:29 2 Artisans" in the catalogue. I didn't realize they
12:11:33 3 switched it to "American Artists."

12:11:36 4 Q. MFA used to say "Vermont Artisans"?

12:11:40 5 A. Yes.

12:11:40 6 Q. Would you say most of the catalogues that
12:11:42 7 you've seen that feature work talk about them,
12:11:48 8 about them being created by Vermont artisans as
12:11:51 9 opposed to American?

12:11:51 10 A. Yes.

12:11:52 11 Q. Take a look at what we have marked as
12:11:54 12 Exhibit 6.

11:54 13 A. Right. What do they say here?

12:11:58 14 Q. That one under Product A does say,
12:12:01 15 "Handcrafted in Vermont." Do you see that?

12:12:03 16 A. There it is, yes.

12:12:05 17 Q. Where does this exhibit come from, if you
12:12:09 18 recall?

12:12:09 19 A. That's from an MFA catalogue, also.

12:12:14 20 Q. Is that sort of description, "handcrafted
12:12:17 21 in Vermont," typical for what is often used to
12:12:21 22 describe your products in other catalogues and
12:12:23 23 circulars?

12:12:24 24 A. That's correct.

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13:46 1 Vermont Shop used to have a Website.

12:13:48 2 They closed down. And then Frog Hollow has a

12:13:53 3 Website. Frog Hollow is in Vermont.

12:13:57 4 Q. What about the Hill's Gallery, do you know
12:13:59 5 if they do any electronic or paper advertising of
12:14:02 6 your products?

12:14:03 7 A. She is about to. She is under a Nantucket
12:14:08 8 Website, but she will be on a regular Website
12:14:12 9 coming this winter.

12:14:19 10 Q. As far as you know, again, most, if not
12:14:24 11 all, of those identify your products as being made
12:14:26 12 in America or in Vermont, correct?

12:14:28 13 A. Good question. I am wondering whether
12:14:37 14 Crystal River does. I am not going to say that for
12:14:40 15 sure.

12:14:41 16 Q. We can check that.

12:14:43 17 Last line of questions, but I think we
12:14:46 18 are almost done.

12:14:47 19 Does the sun catcher get sold in any
12:14:53 20 particular kind of packaging or box or giftwrap or
12:14:59 21 with a hang-tag, anything else that would identify
12:15:02 22 it as your creation?

12:15:04 23 A. Not these -- not those particular ones.

12:15:10 24 Judi Hill will put on her Nantucket

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:15:15 1 tags on this, but we don't. But when we did the
12:15:19 2 MFA, we did sun catcher for the MFA that were like
12:15:23 3 this, and we -- not the same design, but then we
12:15:27 4 would gift box them and do a bunch of stuff with
12:15:32 5 them.

12:15:32 6 Q. So if somebody bought a Country Glass sun
12:15:38 7 catcher from the MFA catalogue, he or she would
12:15:42 8 receive it from a Country Glass box?

12:15:45 9 A. In box, yes. You would get a hanger with
12:15:50 10 it, and the monofilament and cards and the whole
12:15:55 11 works.

12:15:56 12 Q. Okay. Let's take those one at a time.

15:58 13 The hanger, meaning the --

12:16:00 14 A. The monofilament that goes with it, and
12:16:03 15 then they would get a card, and it would be wrapped
12:16:08 16 in bubble wrap with a nice box.

12:16:13 17 Q. The card explains your shop and the
12:16:16 18 process?

12:16:16 19 A. No. The cards we used for the MFA were
12:16:19 20 related to their product creations. They would
12:16:22 21 make up sort of a promotion about how they create
12:16:26 22 their products.

12:16:27 23 Q. Was there anything on the card that you can
12:16:29 24 recall that identified Country Glass as the source?

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:16:33 1 A. No. But we would include our card. It was

12:16:38 2 one of double -- double cards --

12:16:43 3 MR. COLE: No.

12:16:43 4 Q. Do you have copies of the cards?

12:16:45 5 A. I have copies of the museum cards.

12:16:49 6 Q. In all of your wholesale accounts now, do
12:16:53 7 you include the Country Glass card --

12:16:57 8 A. Yes.

12:16:57 9 Q. -- in those as well?

12:16:59 10 A. We always do that.

12:17:01 11 Q. You said a nice box. Did the box itself
12:17:06 12 have the words "Country Glass" or the logo?

17:09 13 A. Usually we have a label that goes across,
12:17:14 14 sort of a sticky label.

12:17:17 15 Q. Do you still have copies of those sticky
12:17:20 16 labels?

12:17:20 17 A. Yes.

12:17:21 18 MR. BIAGETTI: I would like a copy of
12:17:22 19 that as well. Thank you. One second.

12:17:36 20 I am not going to ask the attorneys'-
12:17:38 21 fees question because I am going to assume you are
12:17:41 22 going to instruct her not to answer, right?

12:17:44 23 MR. JOSEPH: Right.

12:17:50 24 Q. Have you ever personalized or otherwise

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12:19:04 1 this one person, but we do other projects like
12:19:08 2 that.

12:19:08 3 Q. I see what you are saying. The design
12:19:11 4 itself got changed for --

12:19:13 5 A. The design. This pattern would be -- I
12:19:15 6 would make something else for somebody else on
12:19:18 7 this.

12:19:21 8 Q. Got it.

12:19:21 9 A. We do custom work for sun catchers.

12:19:24 10 Q. I am catching up.

12:19:26 11 Have you ever tailored in color or
12:19:29 12 etching or anything else a version of the hydrangea
12:19:33 13 sun catcher that is Exhibit 7?

12:19:34 14 A. None other than this. This is just this
12:19:37 15 (indicating).

12:19:39 16 Q. Did you make this particular pattern,
12:19:45 17 Exhibit 7, at the request of Judi Hill?

12:19:49 18 A. At the request of Judi Hill, yes.

12:19:52 19 Q. When was that?

12:19:53 20 A. I had that date -- that's on my -- this
12:19:59 21 sheet right here (indicating). This version is
12:20:06 22 1998 (indicating), and the original version was
12:20:09 23 1988. So this is right there (indicating).

12:20:40 24 EXHIBIT NO. 7 MARKED

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23:29 1 that appear in Plaintiffs' Exhibit 7; is that
12:23:32 2 right?

12:23:32 3 A. Yes.

12:23:33 4 Q. With regard to that design, the one that is
12:23:36 5 in Plaintiffs' Exhibit 7, that was done at the
12:23:40 6 request of Ms. Hill?

12:23:42 7 A. That's correct.

12:23:42 8 Q. Did she actually give you a picture, or did
12:23:45 9 you design it?

12:23:46 10 A. No. She didn't give me a picture. I
12:23:49 11 designed it myself.

12:23:50 12 Q. Did you show it back to her for her
23:53 13 approval before you started pouring --

12:23:57 14 A. She never asked for approval. She just
12:23:59 15 trusts me. She is great.

12:24:03 16 Q. How is it that it came about that she
12:24:05 17 wanted a different version than the old flowers?

12:24:10 18 A. Well, I think she is on the Cape, and she
12:24:14 19 has her -- she knows -- she psychs out her
12:24:19 20 customers.

12:24:19 21 She knows what she sees around the
12:24:22 22 area, and she -- I think she -- for example, Cape
12:24:28 23 -- Nantucket is the center of the daffodil world in
12:24:33 24 this area. So I make daffodils. Hydrangeas are

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24:36 1 another popular flower that is prominent on the
12:24:40 2 Cape. That's why we went with this. So she keeps
12:24:44 3 her -- sort of her eyes out for me.

12:24:47 4 Q. Did she say to you --

12:24:49 5 A. Hydrangea.

12:24:49 6 Q. -- fill it with hydrangeas?

12:24:51 7 A. Yes.

12:24:51 8 Q. And your understanding is she was doing
12:24:54 9 that based on what she thought customers wanted?

12:24:56 10 A. Exactly. She has a good, you know, sense
12:25:01 11 of what art will sell.

12:25:05 12 Q. Okay.

12:25:06 13 A. She does.

12:25:07 14 Q. And nothing wrong with monitoring what
12:25:09 15 customers want as an input into what you are going
12:25:13 16 to create.

12:25:14 17 A. No. We work together.

12:25:15 18 Let's put it together. Let's put it
12:25:19 19 that way. She asks me things sometimes that are
12:25:23 20 impossible to do.

12:25:25 21 MR. BIAGETTI: No further questions
12:25:27 22 from me. Thank you.

12:25:29 23 MR. JOSEPH: No questions today.

12:25:30 24 (The deposition was adjourned at 12:25 p.m.)

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1 COMMONWEALTH OF MASSACHUSETTS)

2 SUFFOLK, SS)

3
4 I, Deborah L. Roth, and Notary Public in and for
5 the Commonwealth of Massachusetts, do hereby
6 certify that there came before me on November 10,
7 2005, the person hereinbefore named, who was by me
8 duly sworn to the truth concerning any knowledge
9 in this cause; that that person was thereupon
10 examined under oath, and the examination reduced
11 to typewriting; and that the deposition is a true
12 record of the testimony given by the witness.

13 I further certify that I am neither related to nor
14 employed by any attorney or counsel employed by
15 the parties hereto or financially interested in the
16 action.

17 In witness whereof, I have hereunto set my hand
18 this 17th day of November 2005.

19
20 

21 DEBORAH ROTH, Notary Public

**CERTIFIED ORIGINAL
LEGALINK BOSTON**

22 My commission expires: 2/7/08
23
24

Charles Bilezikian

02/07/2006

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1

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MASSACHUSETTS

CA No. 04 12698 JLT

-----x
JOHN KNIGHT, DONNA RUSSELL KNIGHT,
CHARLES COLE, VIIU NIILER, COUNTRY
GLASS SHOP, AUNT SADIES, INC., and
SUSAN BOERMAN,

Plaintiffs,

vs.

CHRISTMAS TREE SHOPS, INC.,

Defendant.
-----x

DEPOSITION OF CHARLES BILEZIKIAN

February 7, 2006

2:00 p.m.

Mintz Levin Cohn Ferris Glovsky and Popeo, P.C.

One Financial Center

Boston, Massachusetts

Reporter: Nancy L. Russo

Charles Bilezikian

02/07/2006

2

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16 On Behalf of the Defendant

17
18 ALSO PRESENT:

19 Kenneth O. Bradley, Litigation Counsel

20 John Knight, Plaintiff

21 Donna Russell Knight, Plaintiff

Charles Bilezikian

02/07/2006

13
1 A. The Christmas Tree Shops was a regular full
2 Christmas store -- a Christmas store and it went
3 bankrupt in the '50s or '60s and it was bought by a
4 liquidator who would sell liquidation product there
5 seasonally and I bought it from him. So did I change
6 the concept? What it is today and what it was then is
7 quite different.

8 Q. So in 1970 when you bought it, they would buy
9 closeouts, large lots of last year's product and so
10 forth?

11 A. Yes.

12 Q. Do you still do that?

13 A. Yes.

14 Q. How is it different then?

15 A. Size. The size of the stores. The general
16 line of merchandise has expanded. The original store
17 was only 1000 or 1500 square feet and our stores are as
18 big as 50,000 feet.

19 Q. How many stores are there now?

20 A. Close to 30. About 29, I think.

21 Q. So you're opening new stores every year now;
22 is that correct?

23 A. The company is opening new stores now.

24 Q. There came a time in the past several years

Charles Bilezikian

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1 Q. An off-the-shelf item?

2 A. It would be more than likely at that time.

3 Q. So you didn't have the problem early on
4 when -- goods weren't custom ordered early on; is that
5 correct?

6 A. Well, I'm not so sure they are always custom
7 ordered now. We buy lots and lots of items day after
8 day, thousands and thousands of items.

9 Q. I'm going to show you some -- I was told by
10 your buyers -- were off-the-shelf items and some that
11 were not. Could you mark this as -- I believe it would
12 be 42.

13 (Exhibit No. 42 marked for
14 identification.)

15 Q. Showing you a document marked as Exhibit 42.
16 It's a letter I wrote to you and I apology for
17 misspelling your name, but do recognize the document?

18 A. I do not.

19 Q. You don't know if that document ever made it
20 to your desk?

21 A. I don't know. It's possible -- this is
22 April. It was during the month of April. It's
23 possible I was out of the country. Someone would have
24 seen something and forwarded it on to the proper

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1 supplier follow your instructions? So if you have any
2 idea what the supplier did or did not do, you may
3 answer.

4 A. This item is a Christmas Tree Shops item that
5 someone in our company bought in Asia. It has our
6 sticker on it.

7 Q. That is Exhibit 6, correct?

8 A. Yes. It looks like it is made with lead.
9 Did it have a hanger? It looks like the hanger is
10 broken off. I don't know.

11 Q. I don't know. I think it did.

12 A. It's done with lead where this looks like
13 it's done with bronze or brass. It's considerably
14 heavier.

15 Q. Which one is heavier?

16 A. The Christmas Tree Shops one is heavier, not
17 as delicate and nice as that (indicating.)

18 Q. So which one is nicer then?

19 A. I think the American made one looks nicer to
20 me. It feels better in the hand.

21 Q. Do they look substantially similar?

22 A. There are similarities and there are
23 differences.

24 Q. Are they both made out of three pieces of

Charles Bilezikian

02/07/2006

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1 glass?

2 A. Yes.

3 Q. Are the three pieces of glass the same shape?

4 A. Yes.

5 Q. Are they the same size?

6 A. Pretty close.

7 Q. Now, with an art staff of ten, why couldn't
8 Christmas Tree Shops design it different?

9 A. Absolutely Christmas Tree Shops is capable of
10 doing that.

11 Q. So wouldn't it have made sense for them to
12 make more changes, make it a different size, different
13 shape?

14 A. I can't speak to it. I don't know what
15 transpired there.

16 Q. Well, you can read the transcript from the
17 testimony that one of your buyers bought Exhibit 5,
18 shipped it off to a supplier and I think it was -- I've
19 got the name of the supplier here -- Zibo Anto Glass.
20 Do you know Zibo Anto Glass?

21 A. I don't it. Zibo is a part of China and
22 A-N-T-O?

23 Q. Yes.

24 A. I don't know who they are. It must be a

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1 manufacturer in Zibo.

2 Q. And you did not visit them on this last trip?

3 A. I have never been to Zibo.

4 Q. As I understand it -- and I might be
5 confusing them with another vendor, but I don't think
6 so -- that they are actually in Qingdao?

7 A. I have never been to Qingdao.

8 Q. I have.

9 A. It is a beautiful place I understand.

10 Q. So you have never been to Zibo Anto Glass
11 then?

12 A. No, I have not.

13 Q. I'm going to show you plaintiff's exhibit --
14 these are not in order like the other two are --
15 Plaintiff's Exhibit 10 and 28. Tell me if you
16 recognize those two candles.

17 A. I do not, but this is a Christmas Tree Shops
18 item. It's ticketed and it looks like it was marked
19 down.

20 MR. BIAGETTI: You're referring to
21 Exhibit 10; is that right?

22 THE WITNESS: Exhibit 10, yes.

23 Q. Could you compare the two candles and tell me
24 the similarities and the differences?

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1 A. They are both jar port candles. I don't know
2 the size. It's the standard size tin.

3 Q. What do you mean by standard size tin?

4 A. Tins are a standard size. I think you can
5 buy this tin in this size anywhere in the world.

6 Q. Well, Aunt Sadies tells me that it's a
7 special size. Not a standard size.

8 MR. BIAGETTI: There is no question in
9 front of you.

10 A. I don't know what Aunt Sadies is.

11 Q. Aunt Sadies is the supplier of Exhibit 28.

12 A. Okay.

13 Q. Have you ever been inside an Aunt Sadies
14 store?

15 A. No, I have not. I don't know where they are.

16 Q. There is one right in Boston.

17 A. I have not been in one.

18 Q. Are those two containers the same size?

19 A. I would say they are about the same size,
20 yes.

21 Q. By that you mean they are the same diameter
22 and the same height?

23 A. Yes.

24 Q. Are they the same shape?

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1 A. Yes.

2 Q. What are the tops made of?

3 A. Probably a plastic of some sort to keep the
4 fragrance in. I would guess they are both fragrance.
5 I'm not sure.

6 Q. Take a whiff.

7 A. (Witness complies.) This one has a great
8 deal of fragrance and this one has very little, if any.
9 I don't smell it.

10 MR. BIAGETTI: Which exhibit has very
11 little?

12 THE WITNESS: The Christmas Tree Shops,
13 number ten.

14 Q. So is it better to have more fragrance or
15 less fragrance?

16 A. Is it better? I like it better.

17 Q. Is it a higher quality product when it has a
18 deeper fragrance?

19 A. It could be.

20 Q. Could you tell me what the Nantucket
21 Distributing Company is?

22 A. It's an importing of Christmas Tree Shops.

23 Q. When you sold Christmas Tree Shops, did you
24 sell Nantucket Distributing Co., Inc.?

Charles Bilezikian

02/07/2006

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1 COMMONWEALTH OF MASSACHUSETTS)

2)

3 SUFFOLK, SS.)

4
5 I, Nancy L. Russo, Professional
6 Shorthand Reporter and Notary Public in and for the
7 Commonwealth of Massachusetts, do hereby certify that
8 CHARLES BILEZIKIAN, the witness whose deposition is
9 hereinbefore set forth, was duly sworn by me, and that
10 such deposition is a true record of the testimony given
11 by such witness.

12 I further certify that I am neither
13 related to or employed by any of the parties in or
14 counsel to this action, nor am I financially interested
15 in the outcome of this action.

16 IN WITNESS WHEREOF, I have hereunto set
17 my hand and Notarial Seal this 17th day of February,
18 2006.

19
20 *Nancy L. Russo*

21 Nancy L. Russo

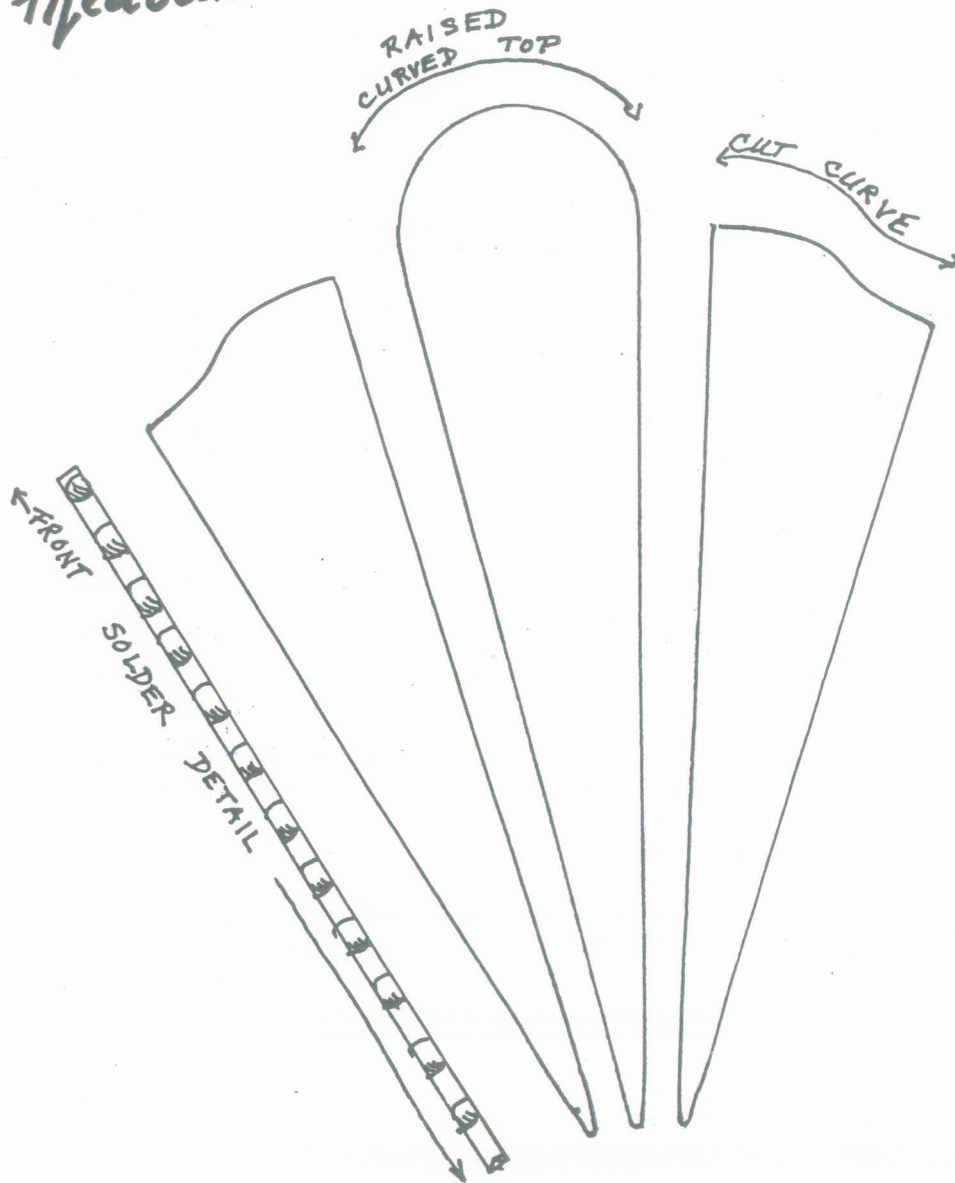
22 Notary Public

23 My commission expires:

24 February 9, 2012

**CERTIFIED TRANSCRIPT
LEGALINK BOSTON**

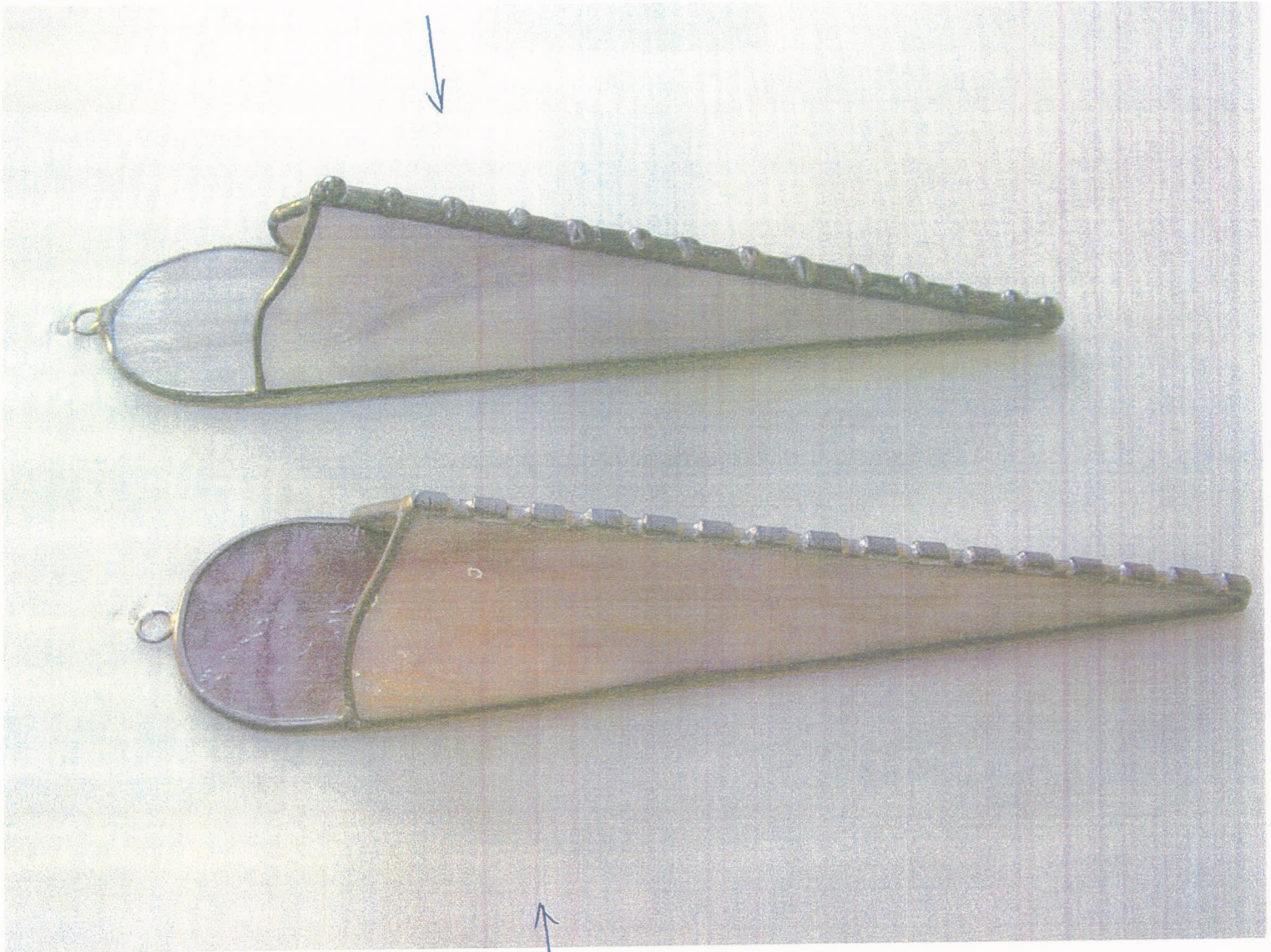
Medium Wall Sconce



Glass: opalescent
colors: blue/white
mauve/white
amber/white
pink/white
green/white
white/white

The Glass Eye
Studio

← The Glass Eye



Cap

	Gross	Class
2001	184,827.13	35,958.20
2002	181,814.48	38,298.55
2003	159,538.22	34,316.34
2004	175,979.10	46,992.82
2005		5,388.70

When scone was discontinued in 2003, new items were introduced (bevelled candle holders, early release of Christmas ornaments - collectable, sand blasted glass ware)

Sharp rise in 2004 resulted from "Final Columbus Day Sale"
4 Day sale \$16,322.18

EXHIBIT 2

Glass Eye
11-9-05 DW

Gifts, Galleries & Antiques

Galleries

Yarn Basket

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Eastham, MA 02642



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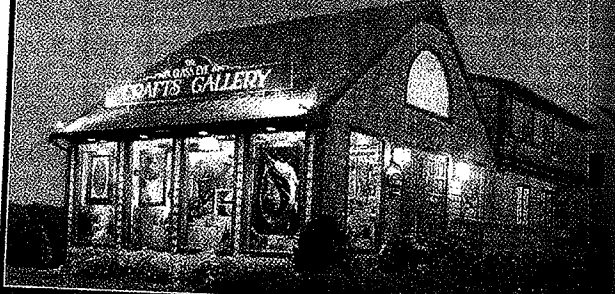
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32

GE 021

www.easthamchamber.com

The Glass Eye

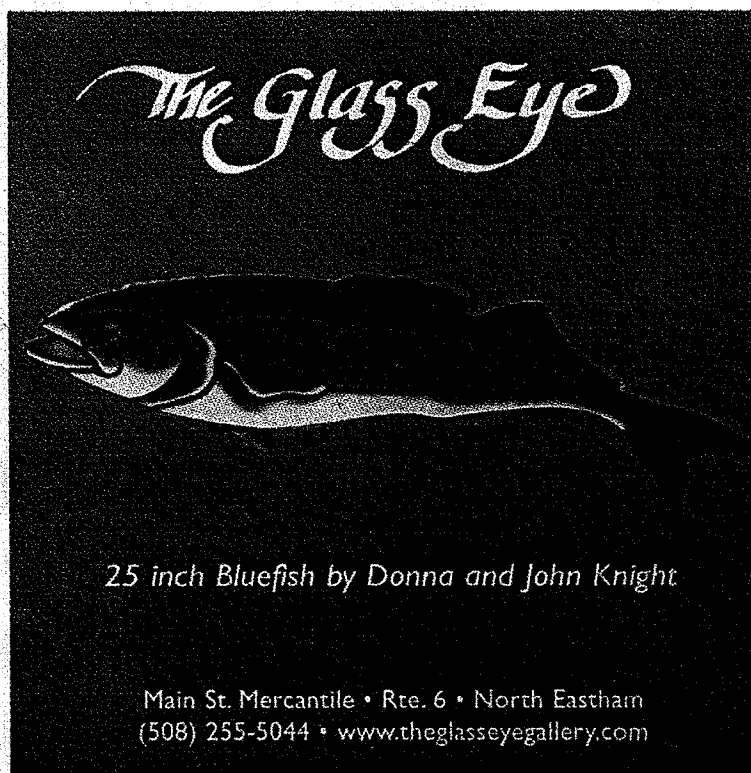


32 inch Striped Bass by Donna and John Knight

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(508) 255-5044 • www.theglasseyegallery.com

The Cape Cod Voice • October 7 - 20, 2004 • 41

GE 030



48 • September 9 - 22, 2004 • The Cape Cod Voice

GE 031

The Glass Eye



"Terns in Flight" 14" diameter by Donna & John Knight

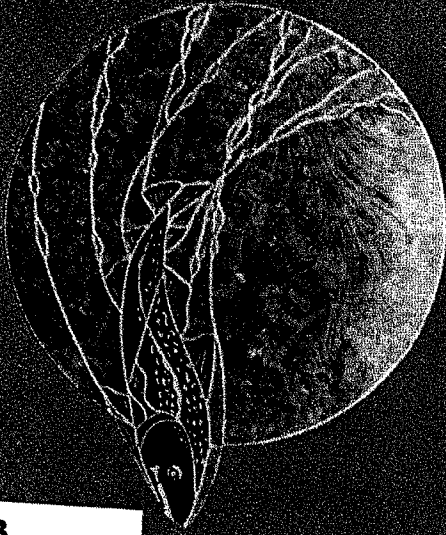
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The Cape Cod Voice • June 17 - 30, 2004 • 35

GE 032

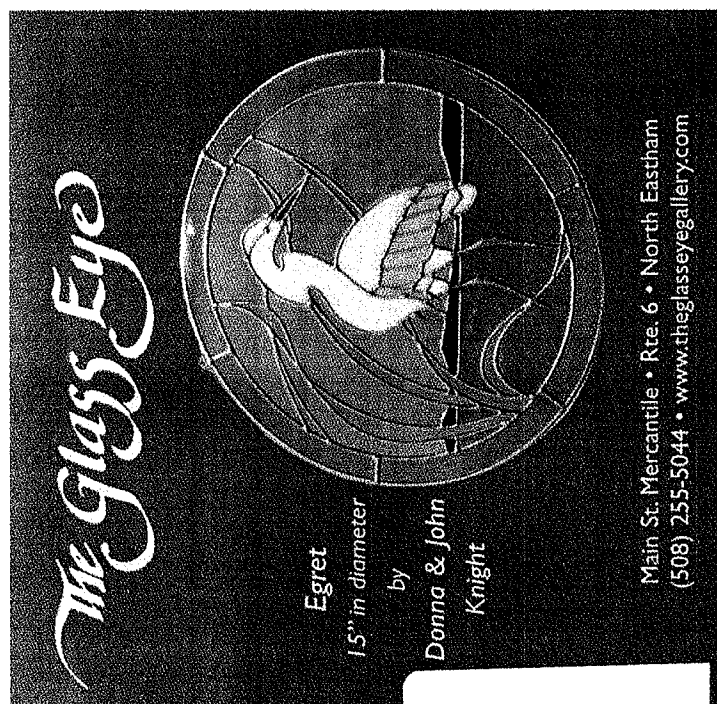
The Glass Eye

Codfish
22" in
diameter
by
Donna &
John
Knight



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GE 033




2004

GE 034

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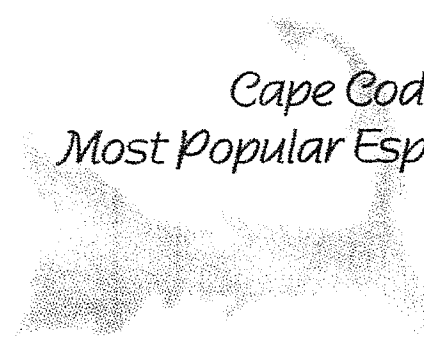
Mirror
by
John Knight



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GE 037

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GE 038



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9-6-2002 CAPE COODER



9-5-03
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GE 039



The Glass Eye
Craft Gallery

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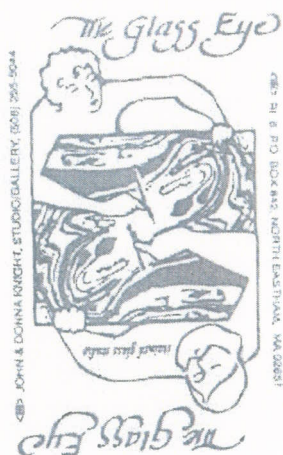
Fri, Sat & Sun • 10am - 5pm

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Main St. Mercantile, North Eastham

10-7-05
CAPC CODON

GE 040



GE 016

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—Donna & John Knight



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UPC#: 13595654			STOCK OVER SALES		STORE#: 000		
WALL VASE STAINGLASS			LAST YEAR - 2003 FY		Cat/Sub: 023/232 CURAD:		
Week 01	Week 02	Week 03	Week 04	Week 05	Week 06	Week 07	Week 08
0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0
Week 09	Week 10	Week 11	Week 12	Week 13	Week 14	Week 15	Week 16
0	0	0	0	0	23805	22600	21639
0	0	0	0	0	195	1132	927
Week 17	Week 18	Week 19	Week 20	Week 21	Week 22	Week 23	Week 24
21032	20603	20098	19659	19106	18559	18164	17734
578	412	491	395	511	522	376	391
Week 25	Week 26	Week 27	Week 28	Week 29	Week 30	Week 31	Week 32
17291	16931	16692	16435	16266	16171	15960	15874
401	351	228	236	165	90	203	84
Week 33	Week 34	Week 35	Week 36	Week 37	Week 38	Week 39	Week 40
15763	15694	15658	15572	15332	14922	14654	14588
107	64	35	84	239	402	260	62
Week 41	Week 42	Week 43	Week 44	Week 45	Week 46	Week 47	Week 48
14473	14397	14369	14181	13710	13505	13222	12764
104	71	28	169	198	200	248	437
Week 49	Week 50	Week 51	Week 52	Week 53	Total Issues for Selection:		
12377	11882	11608	11370	0			
379	478	247	235	0	11735		

F3=Exit, F5=Toggle, F12=Cancel

UPC#: 13595654		STOCK OVER SALES			STORE#: 000		
WALL VASE STAINGLASS		THIS YEAR-2004 FY			Cat/Sub: 023/232 CURAD:		
Week 01	Week 02	Week 03	Week 04	Week 05	Week 06	Week 07	Week 08
11215	11110	10918	10652	10513	10366	10280	10165
146	92	167	264	135	139	85	111
Week 09	Week 10	Week 11	Week 12	Week 13	Week 14	Week 15	Week 16
10076	9939	9835	9795	9718	9684	9652	9509
89	136	101	38	77	33	30	140
Week 17	Week 18	Week 19	Week 20	Week 21	Week 22	Week 23	Week 24
9371	9235	8850	8654	8563	8320	8078	7924
130	135	379	192	84	237	235	151
Week 25	Week 26	Week 27	Week 28	Week 29	Week 30	Week 31	Week 32
7829	7797	7733	7724	7691	7612	7596	7582
93	31	61	9	30	69	16	14
Week 33	Week 34	Week 35	Week 36	Week 37	Week 38	Week 39	Week 40
7551	7537	7531	7498	7473	7443	7434	7389
30	12	5	33	24	29	8	45
Week 41	Week 42	Week 43	Week 44	Week 45	Week 46	Week 47	Week 48
7346	7265	7244	7232	7039	7007	0	0
40	68	21	12	10	26	0	0
Week 49	Week 50	Week 51	Week 52	Week 53	Total Issues for Selection:		
0	0	0	0	0	4012		
0	0	0	0	0			

F3=Exit, F5=Toggle, F12=Cancel

CTS0114

1/19/05

Price Change Inquiry

SKU#: EJD418 % WALL VASE STAINGLASS
 UPC#: 13595654 Retl: 1.00 Landed Cost: .759

Ch	Date	*----- Old -----*	New	Qty		
#	Changed	Retail	Cost	Retail	Sold	Reason For Change
01	2/04/04	1.99	.759	1.00	5188	PHYLLI MARK DOWN

Cmd Keys: 1-Return to First Screen, Roll Keys

CTS0115

Buyer- BuyerName	SubCat	Vendor	VendorName	UPC	SKU	Description
20 Deborah Watts	232	96982	Briwell/ps	13595654	EJD418	% Wall Vase Stainglass

CTS0116

MiscCost	FirstCost	LandedCost	RetailPrice	Markup	WhseOH	ReservedOH	TotalWhseOH	StoreOH
0.075	0.65	0.759	1	24.1	187	6816	7003	4

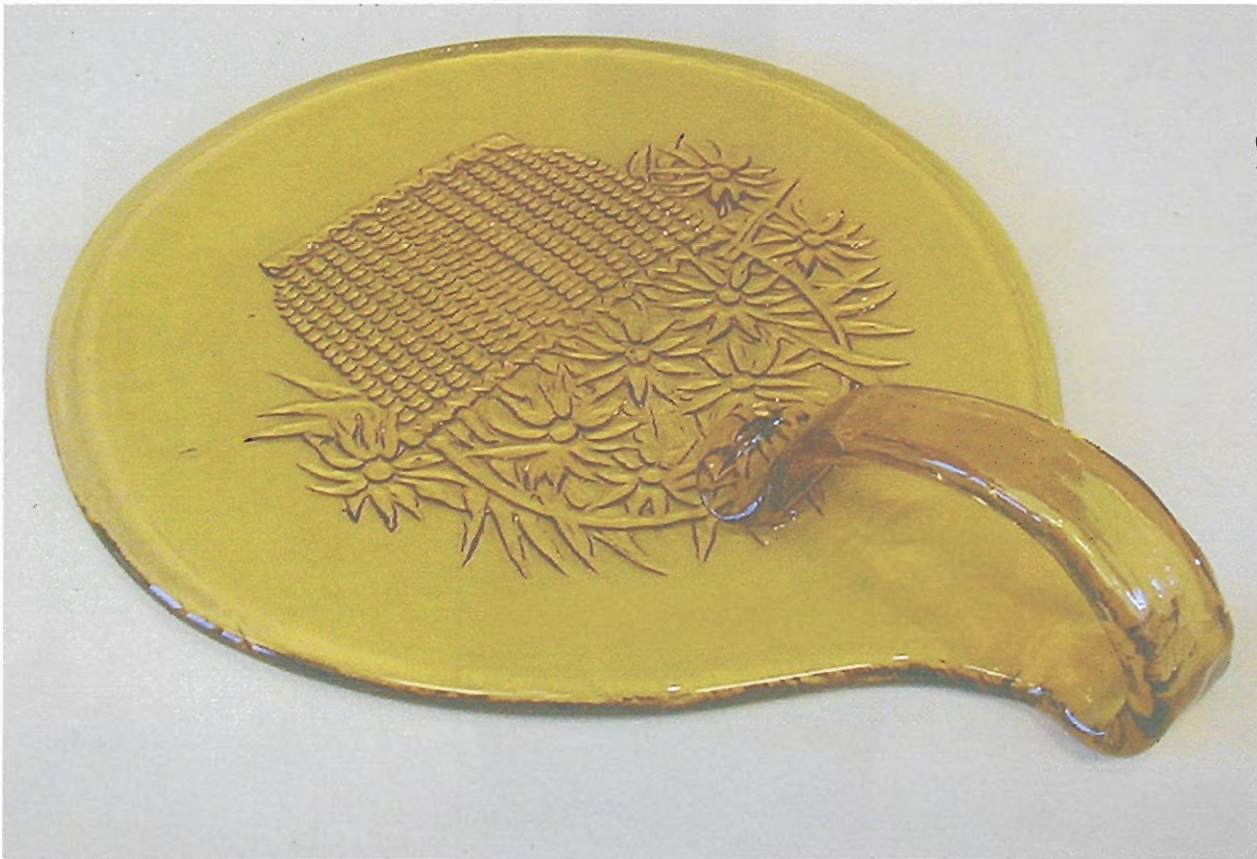
CTS0117

TotalOH	TotalOHDol	SalesYTD	SalesYTDDol	SalesLY	SalesLYDol	LastRcvdDate
7007	7007	4012	3969	11735	22110	6/3/2003

CTS0118



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CG 002

	Total	suncatchers	plates	cheeseplates
1998	737	293	255	189
1999	620	273	156	191
2000	600	284	166	150
2001	500	168	202	130
2002	481	120	197	164
2003	310	90	124	96
2004	284	85	120	79
2005	300	72	144	84
	3832	1385	1364	1083
dollar value (wholesale)	47,765	12,465	13,640	21,660

Percentage of total sales that are represented by copied product.

2002 total sales were \$200,000 with approximately \$ 6250 or 3% of total

2003 total sales were \$176,000 with approximately \$4070 or 2% of total

2004 total sales were \$140,000 with approximately \$3545 or 3% of total

The main location for the sale of this product was on Nantucket at Hill's Gallery which sold 90% of the items. The remaining 10% were sold on the Cape, Martha's Vineyard and Vermont. It has always had a very regionally oriented appeal.

	Total	suncatchers	plates	cheeseplates	Total sales	Percent
1998	737	293	255	189	\$28,200	32%
1999	620	273	156	191	\$30,000	26%
2000	600	284	166	150	\$37,400	19%
2001	500	168	202	130	\$30,500	20%
2002	481	120	197	164	\$27,083	23%
2003	310	90	124	96	\$18,328	22%
2004	284	85	120	79	\$14,732	24%
2005	300	72	144	84	\$14,350	26%
	3832	1385	1364	1083		
Dollar Value (wholesale)						
	47,765	12,465	13,640	21,660		

*These are
the new
numbers
you asked
for*

Percentage of total sales that are represented by copied product.

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The main location for the sale of this product was on Nantucket at Hill's Gallery which sold 90% of the items. The remaining 10% were sold on the Cape, Martha's Vineyard and Vermont. It has always had a very regionally oriented appeal.

I created the first version of the design for this product in 1988. The current version was added in 1998-1999.

As for the addresses ; Potted Geranium , Philip and Stephanie Luty, Box 547, 188 Main St

↑
West Harwich, Mass 02671.

Craftworks, Judith Evergreen. 79 Main St. Bridgton, Maine 04009

New England Goods, Margo O Conell, 57 Main St. Rockport, Mass. 01966,

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SUNCATCHERS SET "Light is the first of painters" wrote Ralph Waldo Emerson in his most famous work, *Nature* (1836). Images from nature inspired our 1995 suncatchers, colorful glass medallions designed to transform your sunny window into a luminous art gallery. This year the set includes five new designs, each taken from an object in the Museum's renowned collection:

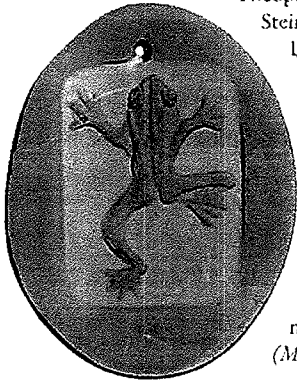
FLOWER BASKET Inspired by a detail on an exquisite fan in the Textile collection.

TULIP From a hand-colored lithograph by Valentine Bartholomew (English, 1799-1879).

GRASSHOPPER Adapted from an ancient seal in the Museum's Classical collection.

RABBIT From a 19th-century greeting card for Raphael Tuck & Sons.

FROG Inspired by a line drawing by artist Théophile-Alexandre Steinlen (French, 1859-1923) housed in the Museum's Print collection.



Add to your personal suncatcher collection, or share them as spring housewarming gifts! Approximately 3½" in diameter, our Museum suncatchers are handmade of recycled glass. Cords not included. #52286 Set of Five \$28.00 (Members \$25.20)



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— Pablo Picasso, quoted in *Six Rhymes and Reason*

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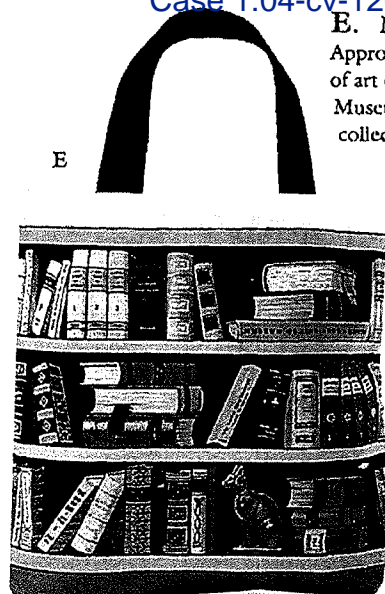
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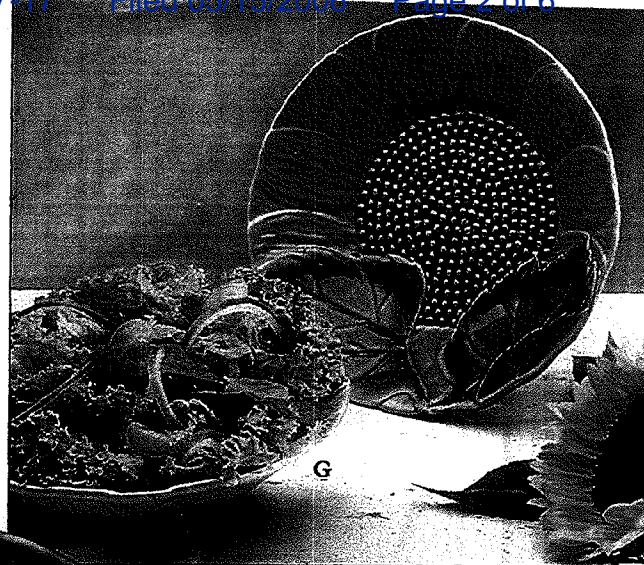
CG 004

Catal

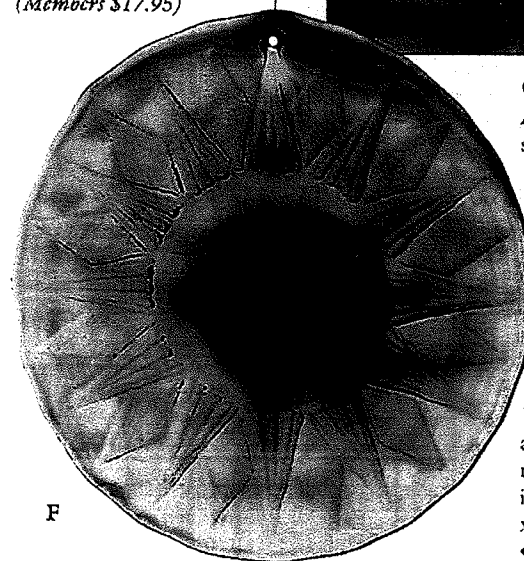
Front cover: South Jersey Inspired Vase; see page 2.

**E. MUSEUM BOOK BAG**

Approximately 300,000 works of art on paper make up the Museum's Prints and Drawings collection, including those contained within rare illustrated books. Our tote was inspired by the elaborate decorations on book spines from this archive of prized volumes. The perfect gift for book and art lovers alike. Poly/cotton, 18" cotton web handles. 14"h x 12"w x 4"d. Machine washable. #40554 \$19.95 (Members \$17.95)

**G. SUNFLOWER SERVING BOWL**

According to myth, the sunflower is the symbol of Clytie, who, because of her unrequited love for Apollo, became a flower that always turns its face towards the sun. Artists through the centuries have immortalized the sunflower as a symbol of unwavering devotion. The inspiration for the interior design on our bowls was taken from a motif of sunflowers enclosed by continuous leaf scrolls appearing on a drop-front desk in the Museum's European Decorative Arts collection. Sunflower bowls are perfect for every course on your picnic menu, or choose the set to serve up light fare in generous, individual portions! 9½" diam. x 2" deep. #52235 \$24.00 (Members \$21.60) •SET OF FOUR Save \$11! #52306-599 \$85.00 (Members \$76.50)

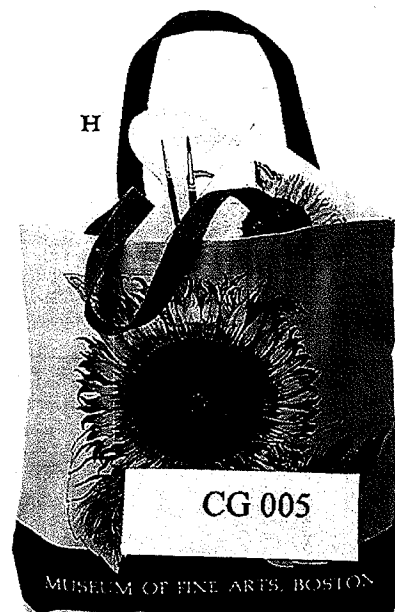
**F. SUNCATCHER WITH SOL**

"Light and shadow never stand still," wrote Benjamin West. Thus our 1995 Suncatcher with *Sol* transforms any sunny window into an ever-changing vision. This year's sun image was drawn from an illustration by Russian artist Ivan Bilibin (1876-1928) from a book in the Museum's Prints and Drawings collection. Approx. 7" in diameter, this striking gift is handmade of recycled glass. Cord not included. #52305 \$22.00 (Members \$19.80)

**H. SUNFLOWER TOTE BAG**

Enjoy the pleasures of the garden year-round! A botanical print from the Museum's Prints and Drawings collection blooms in glorious detail on this poly/cotton tote with 18" cotton web handles. 16"h x 14"w x 4"d. Machine washable. #40600 \$19.95 (Members \$17.95)

J. MUSEUM REMEMBRANCE CALENDARS These delightful, undated calendars serve as permanent monthly reminders for birthdays, anniversaries, and the special days you want to share with family and friends. Each calendar has 12 full-color images, reproduced from our permanent collections, and measures 4¾" x 18½". Spiral bound. \$8.95 each (Members \$8.05)
•MONET #00357
•RENOIR #00358
•SARGENT #00356
•SET OF ALL THREE #00359-099 \$24.95 (Members \$22.45) (M)





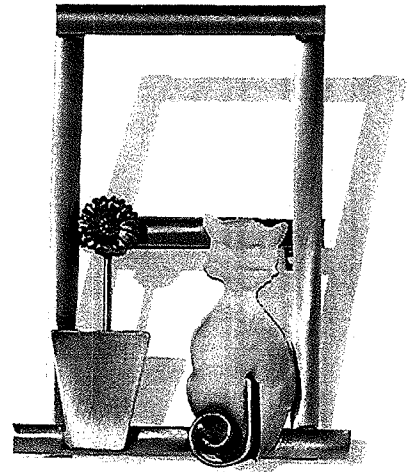
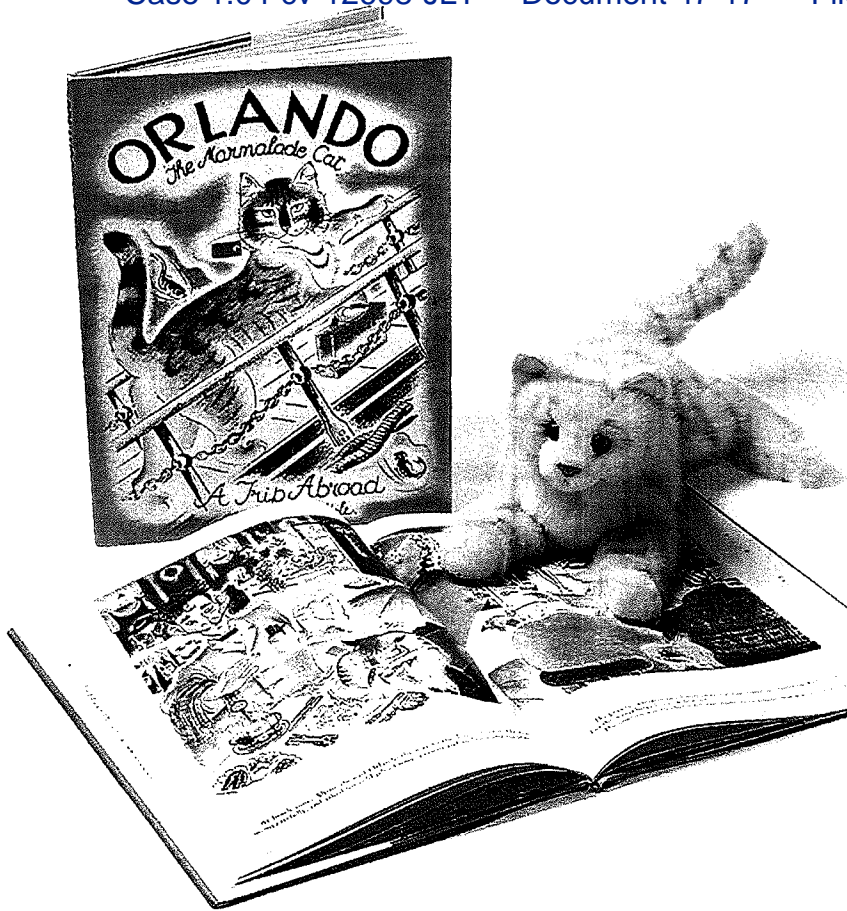
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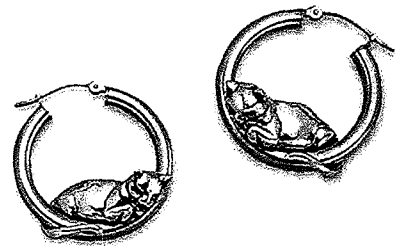
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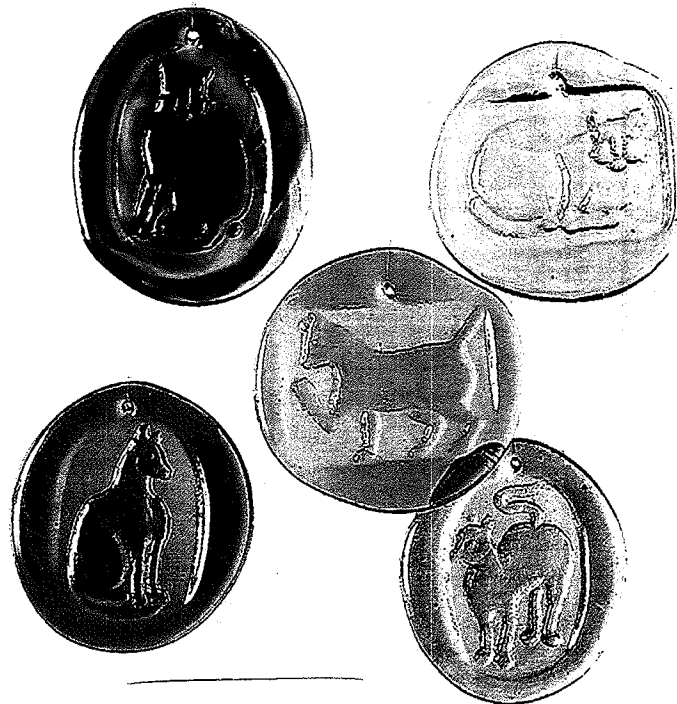
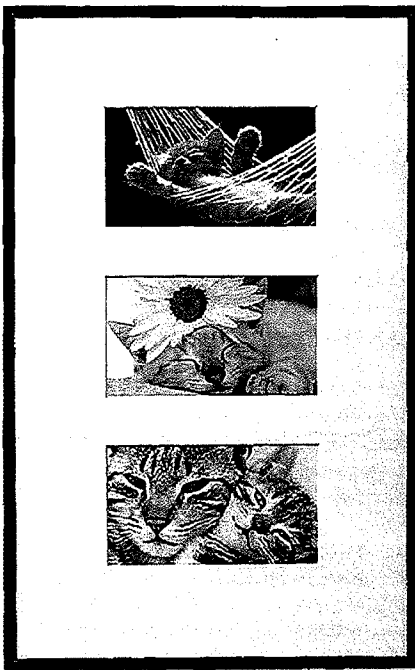
E

F



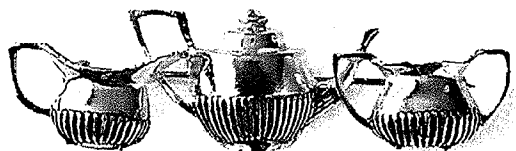
D

G H



CG 009

www.mfa.org/shop [49]



A. Colonial Teapot Pins Lovely miniature reproductions crafted in finely detailed sterling silver recreate tea and coffee service popular during the late-18th century. The MFA houses an array of English porcelain tea sets, an original silver teapot by Paul Revere, and several ceremonial pieces from China and Japan in its Art of Europe, Art of the Americas and Art of Asia Collections. *Queen Anne Tea Set* Shown above. $\frac{3}{4}$ x $2\frac{1}{2}$ " [39057-305] \$36.00. *Colonial Coffee Pot* Shown at right. $1\frac{1}{2}$ x 1" [39058-305] \$28.00. *Old English Teapot* Shown at right. $\frac{3}{4}$ x $2\frac{1}{2}$ " [39058-305] \$28.00

B. Leaf Suncatchers Capture sunlight in a rainbow of color. Each suncatcher is hand-stamped onto recycled glass by American artisans. Impressed with foliage imagery similar to details found in our collection. Each is $3\frac{1}{2}$ " diam. [523703] \$34.00/set of five

C. Pansy Necklace Derived from the French word *pensées*, the pansy is poetically linked to thoughtfulness and remembrance. Our lovely brass necklace is designed with five hand-enameled flowers and six tiny amethyst charms. 18" long. [38859-301] \$68.00

D. Boston Tea Parties Book The historic Boston Tea Party, organized by colonists in 1773, has forever underscored the strong bond between Boston and her cup of tea. *Boston Tea Parties* presents the best of the tea tradition Boston style. For more than 40 years, the Ladies Committee has sponsored the Museum's famous afternoon teas, from which these recipes have been gathered. This new, completely revised edition of a classic cookbook features 230 recipes, lavishly illustrated with art from the MFA's collections. The perfect guide to hosting an elegant, delectable tea party. Softcover: 192 pages. 10" x 8" [00196] \$20.00

E. Vase of Flowers Pin A hand-enameled reproduction of *Flowers in a Blue Vase*, by Maurice Brazil Prendergast (Canadian, 1858-1924), a bright and cheerful oil on canvas housed in our Art of the Americas Collection. $1\frac{1}{2}$ " tall. [38958-305] \$34.00

F. Enameled Treasures Our collectible teapots are diminutive works of art, each handcrafted in the tradition of 17th-century French enameled miniatures. Crafted of hand-painted enamel over copper, the motifs are fashioned after works of art in our collection. Display one or more in a favorite niche or window. Each is signed and numbered by the artist. Shown clockwise from top: 3" tall. *Cats in a Window* [525458]. *Gourds and Butterfly* [525459]. *Butterfly and Florals* [525460] \$24.00 each

G. Monet: A Retrospective Book A personal and valuable documentary of Claude Monet (French, 1840-1926), and his struggle to establish the avant-garde movement of Impressionist painting during the 1860s. With 132 color plates. Hardcover: 384 pages. Original Price: \$75.00 [02027132] Now \$28.95

H. Forget-Me-Not Earrings A symbol of love, our sapphire blossoms hang from European posts crafted of antiqued gold plate. The vintage design is modeled after accessories depicted within French fashion illustrations by Georges Barbier (French, 1882-1932) housed in our Library of Textiles and Fashion Arts. A catalog exclusive. 1" long. [39059-303] \$26.00



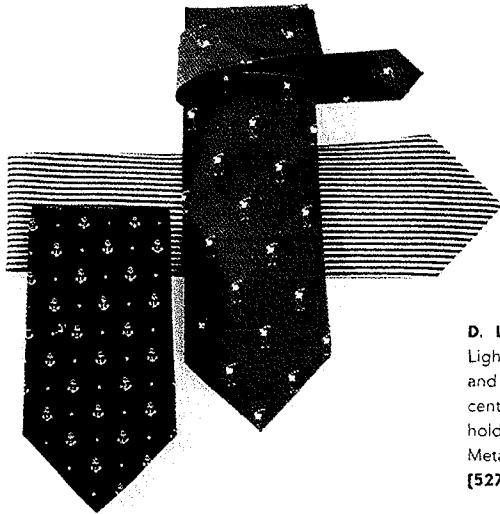
CG 010

Gift Wrap Only \$5.

54 Order 24 hours 1.800.225.5592

red, bright, & blue

surround yourself
with color,
texture, and light



B


A. SEASIDE SUNCATCHERS The nautical version of our popular suncatcher. Each recycled glass ornament is impressed with charming seashore imagery. Handcrafted in Vermont. Hung on clear filament wire. 3 1/4" diam. [525959] \$38/set of 5

B. SPRINGTIME TIES Let our collection of red, white, and blue ties remind you of the coming sunshine with their traditional summer fabrics and depictions of fair-weather pursuits. 4" wide. Dry clean. Imported.

Navy Anchor Silk. [42916], **Red Gaffer Cotton.** [42918], **Red Stripe Cotton.** [42917-405] \$42 each

director's choice

C. PARIS TO PROVINCETOWN NOTECARD WALLET Fleeing Europe at the outbreak of WWI, a group of American artists gathered in Provincetown, Massachusetts. Among the only wintertime residents of this Cape Cod town, this close-knit group of mostly female artists shared ideas, inspiration, and a lasting influence on the art world. 20 blank 5" x 7" notecards with envelopes; 4 each of 5 images.

[27358-203] \$12.95 



A

D. LIGHTHOUSE TEALIGHT HOLDER

Lighthouses have captivated our imagination and figured in folktales and legend for centuries. Our translucent blue glass tealight holder adds a seaside touch to table or porch. Metal frame. Candle not included. 17"H x 5" sq. [527056] \$48

E. CANDY HEART NECKLACE

A rainbow of hand-painted, heart-shaped charms; Swarovski crystals; and cut glass decorate a brass rope chain. 16 1/2" long with hook clasp. [302058-301] \$98

F. LIGHTHOUSE COCKTAIL NAPKINS

Gracious hostess gifts or accessories for a seaside picnic. Presented in a reusable napkin holder and tied with a grosgrain ribbon. 5" sq. folded. 40 napkins. [563521] \$14.95

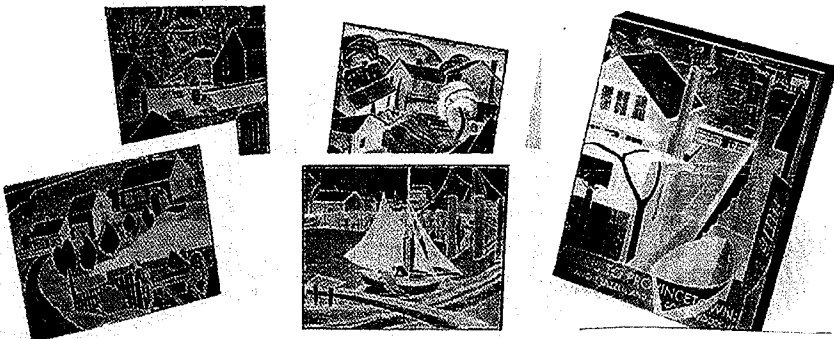
G. SHEER STRIPED SCARF Sheer, silky, shimmering. Tropical colors merge with silvery stripes in a fluid scarf that would be perfectly at home amid crashing surf and white sand. Silk/cotton blend. Dry clean only. 40" x 82" with 2" fringe. Imported. [42926] \$46
Downeast Chair sold on page 3.
Pineapple Raffia Tote sold on page 20.

H. MURANO MILLEFIORE BRACELET

A double strand of vibrant red beads dances with a spectrum of bold millefiori colors, patterns, and shapes. A versatile and bright addition to your jewelry collection. Handcrafted in Italy. 7" long. Box clasp. [302045-302] \$42

J. LONG SLEEVED RED HOODED TOP

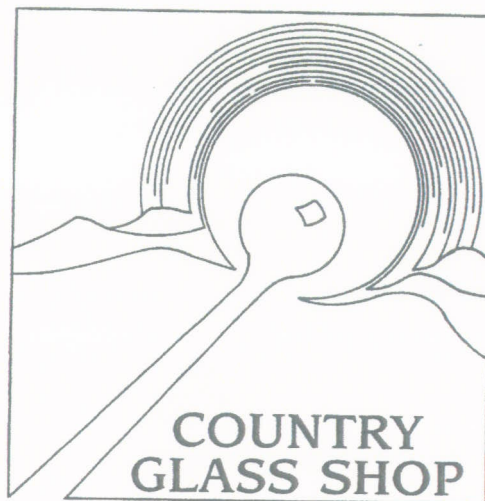
In soft long-fiber cotton, our hooded, button-front top is the ultimate combination of comfort and class. Perfect as a beach cover-up, yet polished enough to go out for dinner afterward. Machine wash cold. S, M, L, XL. See order form for size chart. [42912] \$48



C

*This glass provides the discriminating buyer with quality and craftsmanship in a fine selection of glassware. Made from molten glass, each piece is either free blown and/or pressed into a hand carved mold made of graphite. The molds are designed so that they do not stop the flow of the glass and each piece is individually crafted. No two are alike.

The Shop
Marshfield, Vermont 05658
802-426-3548



CARE OF GLASS

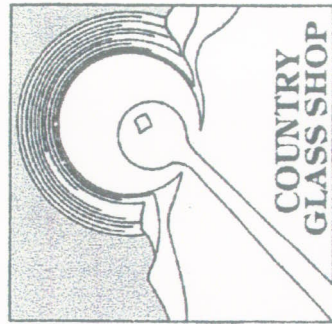
All of our glass is made by hand and is **dishwasher safe but not microwaveable**. However, it is not pyrex and cannot withstand extreme temperature shock. **No boiling or hot liquids**. With normal use and care it will last and retain its beauty.

GLASSBLOWER

Chet Cole, an accomplished glass artist, has studied in the U.S., Mexico, Scandinavia, and Europe. His glass creations are functional, strong, solid and reliable in design and use.

DESIGNER

Glass that is molded or pressed has the mark of Viiru Niiler. She designs and carves the molds and adds the necessary touch to transform the piece to that which represents her interpretation of the medium.

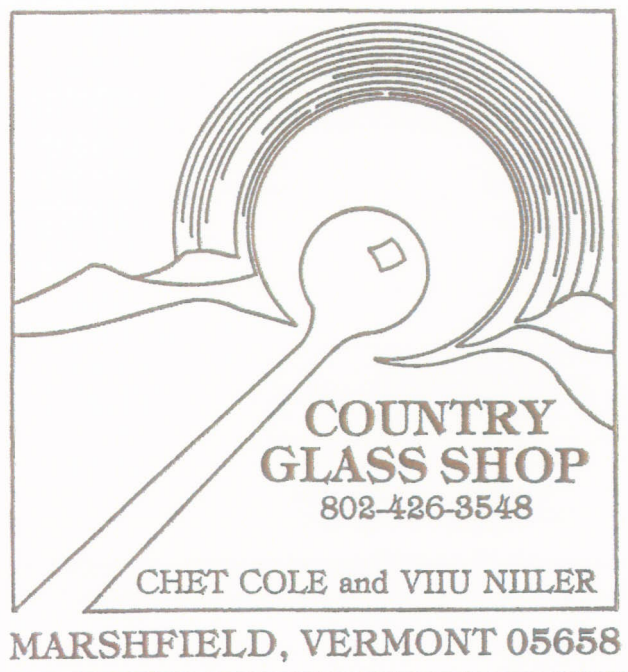


CHET COLE & VIU NIILER
784 PIKE ROAD
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802-426-3548 / viiu@aol.com

HANDBLOWN & PRESSED GLASS
Dishwasher safe / No microwave / No hot liquids



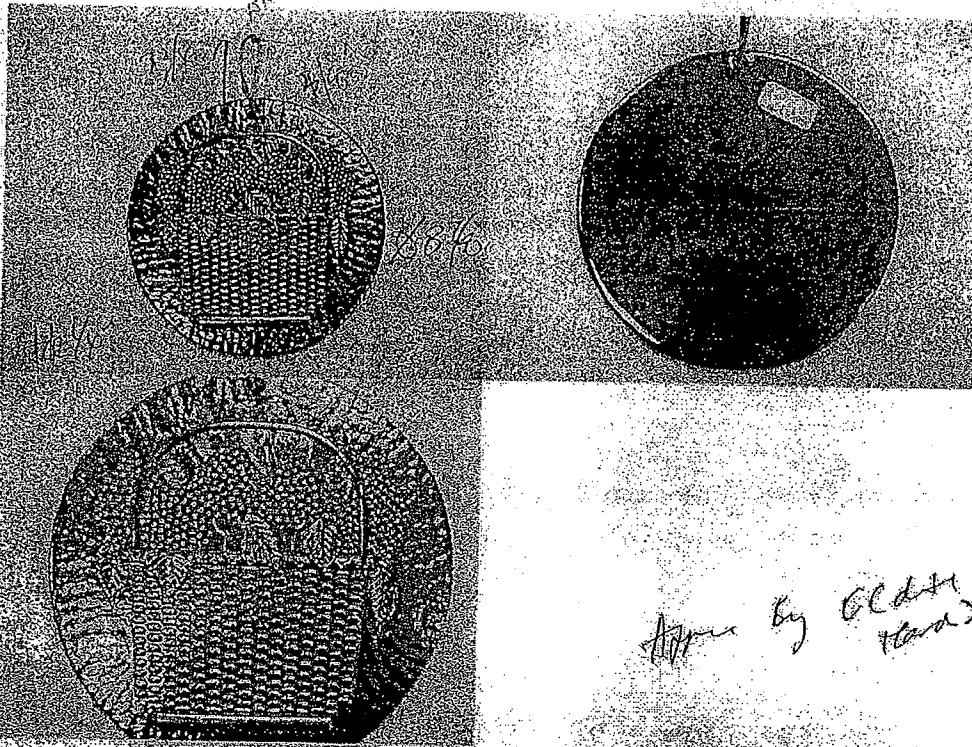
CG 014



CG 015

Set by Special Atty March 14, 2003

Date : March 14, 2003
Re : PO no. 31656 / Zibo Anto / GAN 1474 basket plate hanger / sample for
approval



Set by Special Atty March 14, 2003

UPC#: 13601904			STOCK OVER SALES		STORE#: 000		
9"GLS BASKET PLATE HANGER			LAST YEAR - 2003FY		Cat/Sub: 023/232 CURAD:		
Week 01	Week 02	Week 03	Week 04	Week 05	Week 06	Week 07	Week 08
0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0
Week 09	Week 10	Week 11	Week 12	Week 13	Week 14	Week 15	Week 16
0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0
Week 17	Week 18	Week 19	Week 20	Week 21	Week 22	Week 23	Week 24
0	0	0	0	4176	3538	3116	2881
0	0	0	0	0	631	422	235
Week 25	Week 26	Week 27	Week 28	Week 29	Week 30	Week 31	Week 32
2679	2515	2437	2338	2220	2137	2056	1983
200	163	64	96	118	83	81	72
Week 33	Week 34	Week 35	Week 36	Week 37	Week 38	Week 39	Week 40
1909	1778	1498	1256	1165	1116	1032	1012
74	129	255	242	89	49	84	20
Week 41	Week 42	Week 43	Week 44	Week 45	Week 46	Week 47	Week 48
963	950	902	798	692	587	434	317
49	13	48	104	81	105	153	116
Week 49	Week 50	Week 51	Week 52	Week 53	Total Issues for Selection:		
222	185	128	63	0			
95	37	57	65	0	4030		

F3=Exit, F5=Toggle, F12=Cancel

UPC#: 13601904 STOCK OVER SALES STORE#: 000
 9"GLS BASKET PLATE HANGER THIS YEAR-2004FY Cat/Sub: 023/232 CURAD:

Week 01	Week 02	Week 03	Week 04	Week 05	Week 06	Week 07	Week 08
54	52	46	44	43	43	42	42
9	2	6	2	1	0	1	0
Week 09	Week 10	Week 11	Week 12	Week 13	Week 14	Week 15	Week 16
42	42	42	42	42	42	21	3
0	0	0	0	0	0	21	18
Week 17	Week 18	Week 19	Week 20	Week 21	Week 22	Week 23	Week 24
4	6	6	6	6	6	6	6
7	2	0	0	0	0	0	0
Week 25	Week 26	Week 27	Week 28	Week 29	Week 30	Week 31	Week 32
6	6	6	6	6	6	6	6
0	0	0	0	0	0	0	0
Week 33	Week 34	Week 35	Week 36	Week 37	Week 38	Week 39	Week 40
6	6	6	6	6	6	6	6
0	0	0	0	0	0	0	0
Week 41	Week 42	Week 43	Week 44	Week 45	Week 46	Week 47	Week 48
6	6	6	6	0	0	0	0
0	0	0	0	0	0	0	0
Week 49	Week 50	Week 51	Week 52	Week 53	Total Issues for Selection:		
0	0	0	0	0			
0	0	0	0	0	69		

F3=Exit, F5=Toggle, F12=Cancel

CTS0107

1/19/05

Price Change Inquiry

SKU#: EAN1474 9"GLS BASKET PLATE HANGER
 UPC#: 13601904 Retl: 1.69 Landed Cost: .625

Ch	Date	*----- Old -----*	New	Qty		
#	Changed	Retail	Cost	Retail	Sold	User Reason For Change
00	7/27/03	1.69	.625	1.69	4099	SP0212 BLANK REASON CODE

Cmd Keys: 1-Return to First Screen, Roll Keys

CTS0108

Buyer_	BuyerName	SubCat	Vendor	VendorName	UPC	SKU
20	Deborah Watts	232	97608	Zibo Anto Glass Ind./ac	13601904	EAN1474

CTS0109

Description	MiscCost	FirstCost	LandedCost	RetailPrice	Markup	WhseOH	ReservedOH
9"gl's Basket Plate Hanger	0.124	0.5	0.625	1.69	63	0	0

CTS0110

TotalWhseOH	StoreOH	TotalOH	TotalOHDol	SalesYTD	SalesYTDDol	SalesLY	SalesLYDol
0	0	0	0	69	116	4030	6779

CTS0111

LastRcvdDate
7/23/2003

CTS0112


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 - LOVE AND ROMANCE
 - MISCELLANEOUS HOLIDAY
 - OUR FAMOUS PINE SCENT
 - SPA
 - SPRINGTIME
 - SUMMERTIME FUN
 - THE MADDY LOUNGE
 - VINTAGE STATE
- OTHER SWELL STUFF
- GIFT IDEAS



APPLE PIE

Sure we smile thinking of Aunt Sadie in her apron, rolling out those light-as-air pie crusts. But what we really remember is the sweet aroma of pies baking, engulfing her whole house and teasingly seducing neighbors blocks away. With each whiff came the promise of something so completely satisfying that we long for it decades later. Rest assured, this candle is worthy of her namesake. An Aunt Sadie's favorite

Scent: Apple

Qty: 1 @ \$16.00

Add Gift Wrap? : ☐ @ \$2.50

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HAPPY BIRTHDAY CAKETOP

Even people who don't like to celebrate birthdays love this candle.

Scent: Pina Colado

Qty: 1 @ \$16.00

Add Gift Wrap? : ☐ @ \$2.50

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purveyors of fine beauty potions



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Gifts under \$25

Gifts \$25 to \$50

Fab Gifts over \$50

Her

Him

Pyjamas, Robes & More

Archipelago Monogram

Candles

Candles

Pets

Here Comes the Bride

Aunt Sadie's It's A Girl Candle

\$24.95

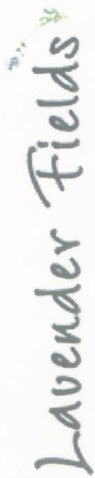


Baby stuff can be elegant and cute at the same time thanks to Emilio Gallardo. These baby powder scented candles by Aunt Sadie take candles to a whole new level. Retro-look tins contain scented candles that fill your home with delicious, comforting scents. Hand-poured and lead-free with wicks that burn for approx. 50 hours. Each approx. 4" h x 3 3/8" diam.

product name	price	quantity	shopping bag
Aunt Sadie's It's A Girl Candle	\$24.95	1	add to basket

free shipping
on all orders over \$70

free samples
with every order



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IT'S A BOY!

Email this to a friend

It's a Boy Candle

Baby stuff can be elegant and cute at the same time

Our Price	Qty
\$17.00	1

BUY

Detailed Description

Scent: Baby Powder

Each Aunt Sadie's Candle is 100% hand-poured, hand-packaged, is lead free with a zinc wick. Aunt Sadie's Candles have a long 70 hour burn time!

CONFIDENTIAL**Aunt Sadie's, Inc.
Sales Summary**

<u>Annual Sales</u>	<u>Sales Apple Pie</u>	<u>% of Total</u>	<u>Sales It's a Boy</u>	<u>% of Total</u>	<u>Sales It's a Girl</u>	<u>% of Total</u>	<u>Sales Happy Birthday</u>	<u>% of Total</u>
2003 \$ 1,815,551.38	\$ 47,739.42	2.6%	\$ 2,192.71	0.1%	\$ 2,262.91	0.1%	\$ 12,965.29	0.7%
2004 \$ 1,914,458.91	\$ 47,640.28	2.5%	\$ 7,646.30	0.4%	\$ 7,943.80	0.3%	\$ 7,696.50	0.4%
2005 To Date \$ 1,365,267.25	\$ 17,535.99	1.3%	\$ 3,835.21	0.3%	\$ 2,991.46	0.2%	\$ 3,667.65	0.3%
Date Product Introduced	Summer 2001		Spring 2003		Spring 2003		Spring 2002	

AS 0001

Additional Sales Data

	<u>2001</u>	<u>2002</u>
Apple Pie	\$ 21,020.05 2.7%	\$ 21,007.35 1.9%
Birthday		\$ 5,746.30 0.4%

Net Profit Data

	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>
Apple Pie	\$ 10,718.33	\$ 11,549.63	\$ 28,290.66	\$ 26,982.84	\$ 1,101.90
Birthday	\$ 2,953.74	\$ 2,677.39	\$ 7,586.85	\$ 4,716.34	\$ 463.74
It's a Boy	\$ -	\$ -	\$ 1,279.35	\$ 4,538.72	\$ 631.98
It's a Girl	\$ -	\$ -	\$ 1,241.31	\$ 4,695.59	\$ 666.90

Oceana Sales Data

14-May-04 \$ 252.00
 24-Mar-05 \$ 220.50
 No orders since March 2005

Report Start Date: 1/1/2005

End Date: 10/28/2005



18 Union Park Street
Boston, MA 02118
(617) 357-7117

Sales by Item Summary

PLU	Description	Qty Sold	Totals		Ave Price
	Gallardoworks Cherry Blossom	32	\$879.67	.0008446	\$30.87
Adiron	Greetings From The Adirondacks	833	\$5,593.35	.0053707	\$7.20
Alabama	Greetings From Alabama	30	\$220.50	.0002117	\$7.35
Alaska	Greetings From Alaska	18	\$132.30	.0001270	\$7.35
Ambiance	BYU - Ambience	28	\$222.60	.0002137	\$7.95
Apple	Apple Pie	2245	\$15,790.89	.0151625	\$7.31
Arena	Arena's Florist Private Label	50	\$367.50	.0003528	\$7.35
Arizona	Greetings From Arizona	30	\$220.50	.0002117	\$7.35
ASAcorn	Anne Smith Acorns and Leaves	423	\$3,322.05	.0031898	\$7.91
ASBirds	Anne Smith Birds	356	\$2,770.71	.0026604	\$7.81
ASBough	Anne Smith Boughs	153	\$1,216.35	.0011679	\$7.95
ASButterfl	Anne Smith Butterflies	229	\$1,820.55	.0017481	\$7.95
ASFish	Anne Smith Fish	148	\$1,176.60	.0011297	\$7.95
ASFlurry	Anne Smith Flurries	66	\$524.70	.0005038	\$7.95
ASGardeni	Anne Smith Gardenia	296	\$2,334.24	.0022413	\$7.92
ASGourds	Anne Smith Gourds	691	\$5,493.45	.0052748	\$7.95
ASJasmine	Anne Smith Jasmine	326	\$2,572.74	.0024703	\$7.92
ASLavend	Anne Smith Lavender	536	\$4,136.86	.0039722	\$7.81
ASLeaves	Ann Smith Acorns and Leaves	276	\$2,175.00	.0020884	\$7.93
ASPoints	Anne Smith Poinsettias	283	\$2,249.85	.0021603	\$7.95
ATBad	Anne Taintor Bad Girls	371	\$2,941.50	.0028244	\$7.95
ATBitter	Anne Taintor Bitter Women	56	\$442.05	.0004244	\$8.03
ATBridge	Anne Taintor Bridge Club	142	\$1,128.90	.0010839	\$7.95
ATChoc	Anne Taintor Chocolate Lovers	256	\$2,027.25	.0019465	\$7.95
ATCoffee	Anne Taintor Coffee Talk	219	\$1,731.45	.0016625	\$7.93
ATDomest	Anne Taintor Domestic Bliss	668	\$5,296.20	.0050854	\$7.92
ATdys	Anne Taintor Dysfunctional Holiday	186	\$1,478.70	.0014198	\$7.95

AS 008

PLU	Description	Qty Sold	Totals	Ave Price
ATFantasy	Anne Taintor Fantasyland	240	\$1,908.00	.0018320
ATGames	Anne Taintor Fun & Games	134	\$1,065.30	.0010229
ATGirls	Anne Taintor Girls Just Wanna Have Fun	461	\$3,664.95	.0035191
ATLucky	Anne Taintor Get Lucky	120	\$954.00	.0009160
ATMidlife	Anne Taintor Midlife Moments	570	\$4,517.10	.0043373
ATMom	Anne Taintor Messages From Mom	18	\$143.10	.0001374
Atmospher	BYU - Atmosphere	19	\$151.05	.0001450
ATProud	Anne Taintor Proud Parents	404	\$3,211.80	.0030840
ATProzac	Anne Taintor Prozac	54	\$429.30	.0004122
ATPuberty	Anne Taintor Puberty	132	\$1,049.40	.0010076
ATSantas	Anne Taintor Santas	129	\$1,025.55	.0009847
ATShopper	Anne Taintor Seasoned Shoppers	381	\$3,025.80	.0029054
ATSpirit	Anne Taintor Holiday Spirit	111	\$882.45	.0008473
AutBouq	Autumn Bouquet	2005	\$14,710.47	.0141251
Babies	Babies	66	\$485.10	.0004657
Baby	It's a Baby!	952	\$6,984.06	.0067061
Balsam	Balsam	1189	\$8,718.84	.0083719
Bayb	Bayberry Candle - no label	160	\$1,176.00	.0011292
Bdayboy	Happy Birthday Boy	66	\$485.10	.0004657
Bdaygirl	Happy Birthday Girl	169	\$1,228.95	.0011800
Beach	Beach	3241	\$21,916.23	.0210441
Beach	B.S. and Dots - Chartreuse/Aqua	483	\$3,623.55	.0034793
Beach	B.S. and Dots - Chartreuse/Orange	242	\$1,815.45	.0017432
Beachboy	Beach Boys	532	\$3,842.46	.0036895
Beachgirl	Beach Girls	457	\$3,339.33	.0032064
Bells	Wedding Bells	831	\$5,074.11	.0048722
Bigsanta	Big Santa Faces Candle	6	\$44.10	.0000423
Blueberry	Blueberry Pie	198	\$1,448.13	.0013905
Boston	Greetings From Boston	12	\$88.20	.0000846
Boughs	Boughs & Bells	817	\$6,004.95	.0057660
Bozeman	Greetings From Bozeman	18	\$132.30	.0001270
BR/GR	"Oh Happy Day" Bride/Groom	141	\$1,027.53	.0009866
Bride	"Oh Happy Day" Bride/Bride	132	\$938.70	.0009013

PLU	Description	Qty Sold	Totals		Ave Price
Brooklyn	Greetings From Brooklyn	60	\$441.00	.0004234	\$7.35
Buffalo	BYU - Where the Buffalo Roam	21	\$166.95	.0001603	\$7.95
Bunny	Easter Bunny	18	\$132.30	.0001270	\$7.35
BYUBah	BYU Bah Humbug	90	\$715.50	.0006870	\$7.95
BYUchip	BYU Chipmunks Roasting	67	\$532.65	.0005114	\$7.95
BYUfalala	BYU- Fa La La La La La La La La	14	\$111.30	.0001068	\$7.95
BYUFun	BYU Oh What Fun	30	\$238.50	.0002290	\$7.95
BYUHolid	Bobs Your Uncle Holiday Assortment	96	\$763.20	.0007328	\$7.95
BYUReal	BYU Santa is Real	40	\$318.00	.0003053	\$7.95
BYUXmas	BYU Holiday Eat Drink Merry	79	\$629.70	.0006046	\$8.05
BYUYule	BYU Blazing Yule	21	\$166.95	.0001603	\$7.95
Cabana	Cabana	165	\$1,212.75	.0011644	\$7.35
Cabin	Cabin	226	\$1,652.34	.0015865	\$7.33
Caketop	Happy Birthday Caketop	399	\$2,930.55	.0028139	\$7.34
California	Greetings From California	266	\$1,956.75	.0018788	\$7.39
CampySet	Clayboys Zodiac Set - Campy	288	\$2,289.60	.0021984	\$7.95
Canada	Greetings From Canada	6	\$44.10	.0000423	\$7.35
Candle	BYU - Holds a Candle	12	\$95.40	.0000916	\$7.95
Candy1/2	Candy Cane 1/2 Pint	450	\$2,040.00	.0019588	\$4.67
CandyC	Candy Cane	1118	\$7,519.50	.0072203	\$7.14
Cape	Greetings From Cape Cod	51	\$374.85	.0003599	\$7.35
CAquarius	Clayboys Aquarius - Campy	41	\$316.05	.0003034	\$7.71
CAries	Clayboys Aries - Camp	66	\$497.70	.0004778	\$7.70
CCancer	Clayboys Cancer - Campy	39	\$307.20	.0002949	\$7.87
CCapricorn	Clayboys Capricorn - Campy	54	\$420.75	.0004040	\$7.81
Ceve	Christmas Eve	279	\$2,050.65	.0019690	\$7.35
CGemini	Clayboys Gemini - Campy	51	\$398.40	.0003825	\$7.83
Cherry	Cherry Pie	311	\$2,281.47	.0021906	\$7.33
Chicago	Greetings From Chicago	6	\$44.10	.0000423	\$7.35
Child	Mother & Child	180	\$1,323.00	.0012703	\$7.35
Chocolate	Chocolate	4499	\$25,891.23	.0248610	\$7.24
Circles-	Beach Circles - yellow/aqua	8	\$58.80	.0000564	\$7.35
Circles-	Beach Circles - yellow/orange	8	\$58.80	.0000564	\$7.35

AS 010

PLU	Description	Qty Sold	Totals		Ave Price
Clauses	The Clauses	102	\$749.70	.0007198	\$7.35
claycampy	Set of 12 - Clayboys Zodiac Campy	360	\$2,862.00	.0027481	\$7.95
ClayNice	Clayboys Zodiac Set - Nice	108	\$829.80	.0007967	\$7.71
Cleanse	Spa Cleanse	235	\$1,727.25	.0016585	\$7.35
CLeo	Clayboys Leo - Campy	53	\$412.80	.0003963	\$7.81
CLibra	Clayboys Libra - Campy	47	\$367.95	.0003533	\$7.80
Coffee	Blue Coffee	1765	\$10,498.77	.0100810	\$7.26
Colorado	Greetings From Colorado	60	\$441.00	.0004234	\$7.35
ComeBaby	BYU - Come on Baby	60	\$477.00	.0004580	\$7.95
Coney	Coney Island	312	\$2,239.47	.0021503	\$7.26
Conneticut	Greetings From Connecticut	18	\$132.30	.0001270	\$7.35
Conneticutt	Greetings From Connecticutt	12	\$88.20	.0000846	\$7.35
CoochyBL	BYU - Coochy Coochy Co - Blue	40	\$318.00	.0003053	\$7.95
CoochyPK	BYU - Coochy Coochy Co - Pink	40	\$318.00	.0003053	\$7.95
Country	Country Insurance Private Label Candle	325	\$2,388.75	.0022937	\$7.35
Couple	AnneMade Dog/Cat Couple	6	\$47.70	.0000458	\$7.95
CPisces	Clayboys Pisces - Campy	41	\$318.90	.0003062	\$7.80
CraftCasIn	Casino Inside Label	18	\$132.30	.0001270	\$7.35
CraftCasO	Casino Outside Label	24	\$176.40	.0001693	\$7.35
CraftClub	Club House Label	18	\$132.30	.0001270	\$7.35
CraftFount	Fountain Label	6	\$44.10	.0000423	\$7.35
CraftMemo	Memorial Label	6	\$44.10	.0000423	\$7.35
CraftPutna	Putnam Hotel Label	6	\$44.10	.0000423	\$7.35
CraftRace	Horse Race Label	24	\$176.40	.0001693	\$7.35
CREDIT	Credit for previous product purchase	1	\$55.50	.0000532	\$55.50
CSagittariu	Clayboys Sagittarius - Campy	71	\$533.10	.0005118	\$7.79
CScorpio	Clayboys Scorpio - Campy	86	\$645.30	.0006196	\$7.78
CTaurus	Clayboys Taurus - Campy	48	\$374.55	.0003596	\$7.81
CTGinger	Crabtree Gingerbread Candle #101147	3432	\$20,058.00	.0192599	\$6.49
CTPepper	Crabtree Peppermint Candle #101144	3432	\$20,058.00	.0192599	\$6.49
CTSnowy	Crabtree Snowy Pine Candle #101146	3420	\$19,980.00	.0191850	\$6.49
CTWinterb	Crabtree Winterberry Candle #101145	3444	\$20,136.00	.0193348	\$6.49
Cupid	Cupid	42	\$306.60	.0002944	\$7.30

AS 011

PLU	Description	Qty Sold	Totals	Ave Price	
CVirgo	Clayboys Virgo - Campy	83	\$630.00	.0006049	\$7.80
DaddyO	Daddy-O	49	\$360.15	.0003458	\$7.35
Dallas	Greetings From Dallas	12	\$88.20	.0000846	\$7.35
Dancing	Dancing Tree	390	\$2,818.38	.0027062	\$7.28
DC	Greetings From Washington, DC	42	\$283.50	.0002722	\$7.09
Deco	Deco Beach Party	525	\$3,858.75	.0037052	\$7.35
Delaware	Greetings From Delaware	12	\$88.20	.0000846	\$7.35
Desire	Desire	58	\$424.20	.0004073	\$7.32
Dots-BL	Black Dots	77	\$562.87	.0005404	\$7.38
Dots-PK	Pink Dots	69	\$507.15	.0004869	\$7.35
Dots-WH	White Dots	75	\$551.25	.0005293	\$7.35
DotsBL	Black Dots	12	\$88.20	.0000846	\$7.35
DotsPK	Pink Dots	12	\$88.20	.0000846	\$7.35
DotsWH	White Dots	6	\$44.10	.0000423	\$7.35
Dwelling	BYU - Sweet Dwelling Unit	20	\$159.00	.0001526	\$7.95
EachOther	BYU - You May Now Kiss Each Other	14	\$111.30	.0001068	\$7.95
Elf	GallardoWorks Elf Legs	203	\$1,877.75	.0018030	\$9.25
EverAfter	BYU - Happily Ever After	188	\$1,494.60	.0014351	\$7.95
Feeling	BYU - How You Feeling	12	\$95.40	.0000916	\$7.95
Fields	Fields of Lavender	24	\$120.00	.0001152	\$5.00
FifiBL	Fifi on Black	149	\$1,090.71	.0010473	\$7.33
FifiPK	Fifi on Pink	157	\$1,149.51	.0011037	\$7.33
FifiWH	Fifi on White	71	\$517.41	.0004968	\$7.32
Florida	Greetings From Florida	169	\$1,167.90	.0011214	\$7.26
FlowerDog	AnneMade Dog with Flowers	6	\$47.70	.0000458	\$7.95
ForMom	For Mom	13	\$95.55	.0000917	\$7.35
Freight	Shipping Charges	23	\$1,147.46	.0011018	\$49.89
Fuzzy	BYU - Warm and Fuzzy	12	\$95.40	.0000916	\$7.95
Gardenia	Gardenia	171	\$1,256.40	.0012064	\$7.39
Georgia	Greetings From Georgia	324	\$2,381.40	.0022866	\$7.35
GetWell	BYU - Get Well Sooner	122	\$969.90	.0009313	\$7.95
Ginger	Gingerbread Candle	2839	\$19,671.73	.0188890	\$7.34
Ginny	Ginny	84	\$617.40	.0005928	\$7.35

AS 012

PLU	Description	Qty Sold	Totals		Ave Price
Giraffe	Giraffe	36	\$260.22	.0002498	\$7.23
Goddess	Goddess	103	\$757.05	.0007269	\$7.35
Golf	Classic Golf	34	\$249.90	.0002399	\$7.35
GranApple	Grandma's Apple Pie	139	\$1,021.65	.0009809	\$7.35
GranBB	Grandma's Blueberry Pie	12	\$88.20	.0000846	\$7.35
GranCherr	Grandma's Cherry Pie	18	\$132.30	.0001270	\$7.35
GrandBB	Grandma's Blueberry Pie	12	\$88.20	.0000846	\$7.35
GrandCher	Grandma's Cherry Pie	6	\$44.10	.0000423	\$7.35
GrandPmk	Grandma's Pumpkin Pie	84	\$617.40	.0005928	\$7.35
GranPmkn	Grandma's Pumpkin Pie	36	\$264.60	.0002540	\$7.35
Grapefruit	Grapefruit	764	\$4,435.02	.0042585	\$7.21
Grass	Grass	1174	\$8,595.69	.0082536	\$7.33
Groom	"Oh Happy Day" Groom/Groom	153	\$1,074.15	.0010314	\$7.22
GTScroll	Green Tea Scroll	276	\$2,024.10	.0019435	\$7.33
Guys	Guy's Candle	220	\$1,603.62	.0015398	\$7.30
GWAnGin	Gallardo Gingerbread - 011815180	3498	\$24,486.00	.0235117	\$7.00
GWBambo	Gallardo Works Bamboo Grove	198	\$1,682.10	.0016151	\$8.49
GWBlosso	Gallardo Works Zen Cherry Blossom	1427	\$9,438.30	.0090627	\$9.62
GWBoy	Gallardo Works It's a Boy	289	\$2,812.21	.0027003	\$9.29
GWChrist	Gallardo Works Christmas Tree	582	\$5,346.42	.0051336	\$9.22
GWDragon	Gallardo Works Zen Dragonfly	529	\$4,148.59	.0039835	\$9.01
GWElf	Gallardo Works Elf Legs	220	\$2,035.00	.0019540	\$9.25
GWginger	Gallardo Works Gingerbread Man	492	\$4,503.90	.0043246	\$9.21
GWGingko	Gallardo Works Ginkos Cascading	34	\$283.90	.0002726	\$8.35
GWGinko	Gallardo Works Ginkos Cascading	86	\$730.70	.0007016	\$8.52
GWGirl	Gallardo Works It's a Girl	208	\$1,912.96	.0018368	\$9.22
GWGolf	Gallardo Works Golf	34	\$314.50	.0003019	\$9.25
GWHapHo	Gallardo Works Happy Holidays	18	\$150.30	.0001443	\$8.35
GWHoHo	Gallardo Works Ho! Ho! Ho!	959	\$8,772.35	.0084233	\$9.22
GWJoy	Joy Hope Love	127	\$1,060.45	.0010182	\$8.35
GWLove	Gallardo Works I Love You	41	\$368.21	.0003535	\$9.12
GWLoveFl	Gallardo Works Love You Flowers	12	\$111.00	.0001065	\$9.25
GWLuv	Gallardo Works LOVE	18	\$166.50	.0001598	\$9.25

AS 013

PLU	Description	Qty Sold	Totals		Ave Price
GWMazel	Mazel Tov	48	\$444.00	.0004263	\$9.25
GWModB	GallardoWorks Mod Flowers - Blue	84	\$777.00	.0007460	\$9.25
GWModG	GallardoWorks Mod Flowers - Green	145	\$1,341.25	.0012878	\$9.25
GWModP	GallardoWorks Mod Flowers - Pink	150	\$1,387.50	.0013322	\$9.25
GWMothB	GallardoWorks Mother's Day Birds	372	\$2,901.00	.0027855	\$9.14
GWMother	GallardoWorks Happy Mother's Day	930	\$7,252.50	.0069639	\$9.19
GWNoel	GallardoWorks Noel	54	\$450.90	.0004329	\$8.35
GWPeace	GallardoWorks Peace on Earth	546	\$4,967.10	.0047694	\$9.22
GWPine	GallardoWorks Snow Trees	343	\$3,089.35	.0029664	\$9.21
GWPineco	GallardoWorks Pine Cones	435	\$3,556.65	.0034151	\$8.32
GWPoppy	GallardoWorks Poppy Field	205	\$1,729.75	.0016609	\$8.44
GWRudolph	GallardoWorks Rudolph	556	\$5,120.92	.0049171	\$9.23
GWSandal	GallardoWorks Sandals	864	\$7,992.00	.0076740	\$9.25
GWSeason	GallardoWorks Seasons Greetings	146	\$1,267.10	.0012166	\$9.16
GWSeason	Gallaro Season Tree - 0011815214	2100	\$14,700.00	.0141150	\$7.00
GWSkate	Gallardo Girl Skate - 0011815198	1746	\$12,222.00	.0117356	\$7.00
GWsnowfa	GallardoWorks Snow Fall	354	\$3,274.50	.0031442	\$9.25
GWSnow	GallardoWorks Snowman	341	\$3,117.17	.0029931	\$9.19
GWStocki	Gallardo Joy Stocking - 0011815206	1398	\$9,786.00	.0093966	\$7.00
GWStripes	GallardoWorks Stripes & Mod Flowers	32	\$296.00	.0002842	\$9.25
GWSunshi	GallardoWorks You Are My Sunshine	928	\$6,950.50	.0066739	\$9.08
GWTree	GallardoWorks Tree - SKU #65515	84	\$777.00	.0007460	\$9.25
GWValen	Gallardo Works Be My Valentine	13	\$120.25	.0001154	\$9.25
GWwarne	GallardoWorks Warmest Wishes	394	\$3,561.10	.0034194	\$9.21
GWWhites	GallardoWorks Zen Paper Whites	1036	\$7,752.82	.0074443	\$9.02
Hall	Halloween	760	\$5,577.24	.0053553	\$7.33
HappyHol	Happy Holiday	150	\$1,113.90	.0010695	\$7.49
Harvest	Harvest	319	\$2,346.30	.0022529	\$7.39
Hawaii	Greetings From Hawaii	21	\$159.30	.0001529	\$7.76
Hazel	AnneMade Hazel	9	\$71.55	.0000687	\$7.95
Hearts-BL	Black Hearts	8	\$58.80	.0000564	\$7.35
Hearts-PK	Pink Hearts	8	\$58.80	.0000564	\$7.35
Hearts-WH	White Hearts	11	\$80.85	.0000776	\$7.35

AS 014

PLU	Description	Qty Sold	Totals		Ave Price
HeartsBL	Black Hearts	2	\$14.70	.0000141	\$7.35
HeartsPK	Pink Hearts	2	\$14.70	.0000141	\$7.35
HeartsWH	White Hearts	2	\$14.70	.0000141	\$7.35
Hollywood	Greetings From Hollywood	6	\$44.10	.0000423	\$7.35
Honey	Honey	894	\$6,566.52	.0063052	\$7.34
Hounds	Gentlemen's Blend - Houndstooth	127	\$931.95	.0008948	\$7.33
House	Housewarming	831	\$6,090.33	.0058479	\$7.33
HRCPrivat	Human Rights Campaign Partner Candle	109	\$686.70	.0006593	\$6.30
HSH-	Home Sweet Home Clouds	24	\$176.40	.0001693	\$7.35
HSH-	Home Sweet Home - Illustration	79	\$571.95	.0005491	\$7.25
HSH-	Home Sweet Home - Sampler	234	\$1,700.10	.0016324	\$7.32
Hunka	BYU - Hunka Hunka Burning Love	54	\$429.30	.0004122	\$7.95
Idaho	Greetings From Idaho	30	\$220.50	.0002117	\$7.35
Illinois	Greetings From Illinois	1	\$9.00	.0000086	\$9.00
Illustration	Home Sweet Home - Illustration	18	\$132.30	.0001270	\$7.35
Indiana	Greetings From Indiana	18	\$132.30	.0001270	\$7.35
Inferno	BYU - Disco Inferno	30	\$238.50	.0002290	\$7.95
Iowa	Greetings From Iowa	30	\$220.50	.0002117	\$7.35
Jasmine	Jasmine	1240	\$6,973.65	.0066961	\$7.23
Joyful	Joyful Easter	132	\$957.06	.0009189	\$7.31
Just	Just Married	216	\$1,583.16	.0015201	\$7.33
Kansas	Greetings From Kansas	90	\$661.50	.0006351	\$7.35
Keith1	Black & White Label	6	\$47.70	.0000458	\$7.95
Keith2	Multi Color Label	6	\$47.70	.0000458	\$7.95
Kentucky	Greetings From Kentucky	24	\$176.40	.0001693	\$7.35
Kids	Mom & Kids	7	\$51.45	.0000494	\$7.35
KnowsBest	BYU - Mother Knows	207	\$1,645.65	.0015801	\$7.95
Label-AS	Illinois LABELS	297	\$118.80	.0001140	\$0.40
Label-GW	LABELS as flurries	40	\$16.00	.0000153	\$0.40
Lace	Lace	600	\$3,376.80	.0032424	\$7.13
Lavender	Floral Lavender	272	\$1,986.06	.0019070	\$7.30
LAVScroll	Lavender Scroll	198	\$1,455.30	.0013973	\$7.35
LavTrav	Travel 1/2 pint	126	\$630.00	.0006049	\$5.00

AS 015

PLU	Description	Qty Sold	Totals		Ave Price
Leather	Leather	307	\$2,256.45	.0021666	\$7.35
Leaves	Autumn Leaves Candle	2198	\$16,150.62	.0155079	\$7.35
Lemon	Essence of Lemon	1950	\$11,163.42	.0107192	\$7.28
Lemonade	Lemonade	2929	\$17,740.09	.0170342	\$7.22
Lilac	Lilac	300	\$2,205.00	.0021172	\$7.35
Los	Greetings From Los Angeles	108	\$793.80	.0007622	\$7.35
Louisiana	Greetings From Louisiana	18	\$132.30	.0001270	\$7.35
Lovers	Lover's Candle	126	\$926.10	.0008892	\$7.35
LunaLong	Greetings From Long Beach (Private	36	\$264.60	.0002540	\$7.35
LVScroll	Lemon Verbena Scroll	378	\$2,773.80	.0026634	\$7.34
Madly	BYU - Truly Madly Deeply	12	\$95.40	.0000916	\$7.95
Maine	Greetings From Maine	192	\$1,332.48	.0012794	\$7.24
Makes3BL	BYU - And Baby Makes 3 - Blue	19	\$151.05	.0001450	\$7.95
Makes3PK	BYU - And Baby Makes 3 - Pink	13	\$103.35	.0000992	\$7.95
ManyMore	BYU - And Many More	56	\$445.20	.0004274	\$7.95
Marlyland	Greetings From Maryland	84	\$617.40	.0005928	\$7.35
Massachus	Greetings From Massachusetts	63	\$463.05	.0004446	\$7.35
Mazel	GallardoWorks Mazel Tov	6	\$55.50	.0000532	\$9.25
Mediate	Spa Meditate	102	\$749.70	.0007198	\$7.35
Meditate	Spa Meditate	35	\$257.25	.0002470	\$7.35
Meow	Meow!	196	\$1,438.50	.0013812	\$7.34
Mice	AnneMade Birthday Cats	9	\$71.55	.0000687	\$7.95
Michigan	Greetings From Michigan	42	\$308.70	.0002964	\$7.35
Minnesota	Greetings From Minnesota	36	\$264.60	.0002540	\$7.35
Mississippi	Greetings From Mississippi	54	\$396.90	.0003811	\$7.35
Missouri	Greetings From Missouri	36	\$264.60	.0002540	\$7.35
Mom	Mom	213	\$1,565.55	.0015032	\$7.35
MomDog	AnneMade Mom Dog	12	\$95.40	.0000916	\$7.95
Montana	Greetings From Montana	78	\$573.30	.0005504	\$7.35
Mood	BYU - Mood Lighting	31	\$246.45	.0002366	\$7.95
Moon	Moonlight	6	\$44.10	.0000423	\$7.35
Moose	Moose in Woods	367	\$2,618.73	.0025145	\$7.31
Motif	Motif	60	\$438.90	.0004214	\$7.31

AS016

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PLU	Description	Qty Sold	Totals	Ave Price	
Moultrie	Moultrie, GA Private Label	100	\$735.00	.0007057	\$7.35
MtvrnCO	Mt. Vernon Private Label	144	\$1,058.40	.0010162	\$7.35
MtvrnGT	Mt Vernon Private Label	48	\$352.80	.0003387	\$7.35
NAquarius	Clayboys Aquarius - Nice	87	\$620.40	.0005957	\$7.48
NAries	Claboy's Aries - Nice	24	\$187.95	.0001804	\$7.76
NCancer	Clayboys Cancer - Nice	39	\$290.10	.0002785	\$7.63
NCapricor	Clayboys Capricorn - Nice	15	\$116.40	.0001117	\$7.63
Ncarolina	Greetings From North Carolina	54	\$396.90	.0003811	\$7.35
Ndakota	Greetings From North Dakota	17	\$124.95	.0001199	\$7.35
Nebraska	Greetings From Nebraska	18	\$132.30	.0001270	\$7.35
Neveda	Greetings From Nevada	60	\$441.00	.0004234	\$7.35
NGemini	Clayboys Gemini - Nice	30	\$229.95	.0002208	\$7.63
Nhampshir	Greetings From New Hampshire	42	\$308.70	.0002964	\$7.35
Njersey	Greetings From New Jersey	122	\$890.10	.0008546	\$7.29
NLeo	Clayboys Leo - Nice	18	\$126.00	.0001209	\$7.00
NLibra	Clayboys Libra - Nice	33	\$242.40	.0002327	\$7.48
Nmexico	Greetings From New Mexico	30	\$220.50	.0002117	\$7.35
NoPlace	BYU - No Place Like Home	32	\$254.40	.0002442	\$7.95
NPisces	Clayboys Pisces - Nice	27	\$197.55	.0001896	\$7.48
NSagittariu	Clayboys Sagittarius - Nice	42	\$302.55	.0002905	\$7.48
NScorpio	Clayboys Scorpio - Nice	30	\$218.55	.0002098	\$7.48
NTaurus	Clayboys Taurus - Nice	48	\$355.95	.0003417	\$7.63
NVirgo	Clayboys Virgo - Nice	18	\$126.00	.0001209	\$7.00
NYBGBou	New York Botanical Garden Bells &	100	\$735.00	.0007057	\$7.35
NYBGGin	New York Botanical Garden Gingerbread	100	\$735.00	.0007057	\$7.35
NYBGGra	New York Botanical Garden Grass Private	47	\$345.45	.0003317	\$7.35
NYBGSno	New York Botanical Garden Snowy Tree	200	\$1,470.00	.0014115	\$7.35
NYC	Greetings From New York City	12	\$88.20	.0000846	\$7.35
Nyork	Greetings From New York	128	\$938.70	.0009013	\$7.33
OfAll	BYU - The Mother	105	\$834.75	.0008015	\$7.95
Ohio	Greetings From Ohio	54	\$396.90	.0003811	\$7.35
OJ	Orange Juice	498	\$3,454.50	.0033170	\$7.31
Oklahoma	Greetings From Oklahoma	24	\$176.40	.0001693	\$7.35

AS017

PLU	Description	Qty Sold	Totals		Ave Price
Orange	Essence of Orange	240	\$1,759.62	.0016896	\$7.33
Oregon	Greetings From Oregon	24	\$176.40	.0001693	\$7.35
OutOn	Out on the Town	6	\$44.10	.0000423	\$7.35
Paris	Evening in Paris	486	\$3,104.76	.0029812	\$7.15
Peach	Peach Pie	360	\$2,639.52	.0025344	\$7.33
Pear	Pear	750	\$5,499.24	.0052804	\$7.33
Pennsylvan	Greetings From Pennsylvania	6	\$44.10	.0000423	\$7.35
Photo	Photo Ornament Candle	18	\$132.30	.0001270	\$7.35
PhotoPum	Large Pumpkins Pie Candle	6	\$44.10	.0000423	\$7.35
pilgrims	Thanksgiving Pilgrims	327	\$2,403.45	.0023078	\$7.35
Pineapple	Essence of Pineapple	374	\$2,741.73	.0026326	\$7.35
Pittsburgh	Greetings From Pittsburgh	6	\$44.10	.0000423	\$7.35
Plaid	Gentlemen's Blend - Plaid	91	\$654.15	.0006281	\$7.24
PotRosem	Potted Rosemary	486	\$3,545.10	.0034040	\$7.33
Private-	Greetings from Thomasville GA	148	\$888.00	.0008526	\$6.00
Provence	Evening in Provence	54	\$388.14	.0003726	\$7.26
Pumpkin	Pumpkin Pie Candle	2526	\$18,352.92	.0176226	\$7.33
Pup	Puppy Woof!	66	\$485.10	.0004657	\$7.35
Purify	Spa Purify	162	\$1,190.70	.0011433	\$7.35
RedDel	Red Delicouis Apple	2202	\$14,439.42	.0138648	\$7.31
Rehobeth	Greetings From Rehobeth Beach	12	\$88.20	.0000846	\$7.35
ResortAqu	Resort Stripes - Violet and Aqua	3	\$22.05	.0000211	\$7.35
ResortGree	Resort Stripes - Violet and Green	3	\$22.05	.0000211	\$7.35
Risland	Greetings From Rhode Island	12	\$88.20	.0000846	\$7.35
RoseHerb	Rosemary Herb	978	\$7,155.09	.0068703	\$7.32
SadieHolly	Holly	165	\$1,212.75	.0011644	\$7.35
Sampler	Home Sweet Home - Sampler	72	\$529.20	.0005081	\$7.35
SanFran	Greetings From San Francisco	12	\$88.20	.0000846	\$7.35
Santaset	Vintage Santa Collection	1116	\$8,202.60	.0078762	\$7.35
Santat	Santa Tree	763	\$5,560.05	.0053388	\$7.34
Scarolina	Greetings From South Carolina	24	\$176.40	.0001693	\$7.35
sclause	Santa Claus	36	\$260.22	.0002498	\$7.17
Seahorse	Seahorses	1113	\$6,504.75	.0062459	\$7.17

AS018

PLU	Description	Qty Sold	Totals		Ave Price
Settle	Spa Settle Down	192	\$1,411.20	.0013550	\$7.35
Sliced	BYU - Sliced Bread	36	\$286.20	.0002748	\$7.95
SmithCherr	Smithsonian Museum Shops Private Label	800	\$4,760.00	.0045706	\$5.95
SnowSnow	Snow, Snow, Snow	150	\$1,102.50	.0010586	\$7.35
Snowy1/2	Snowy Tree 1/2 Pint Candle	1335	\$5,796.00	.0055653	\$4.51
SnowyT	Snowy Tree	6035	\$41,830.47	.0401660	\$7.31
Sonoma	Sonoma Fairmount Private Label	552	\$3,864.00	.0037102	\$7.00
SpankingB	BYU - Brand Spanking New - Blue	19	\$151.05	.0001450	\$7.95
SpankingP	BYU - Brand Spanking New - Pink	19	\$151.05	.0001450	\$7.95
SpNights	Spring Nights	118	\$867.30	.0008327	\$7.35
Spoon	Spoon Sisters Private Label Candle	18	\$132.30	.0001270	\$7.35
Springtime	Springtime	372	\$2,734.20	.0026254	\$7.35
STApple	Apple Pie # 15744832	1776	\$9,501.60	.0091235	\$5.35
StarsStripe	Stars and Stripes	222	\$1,631.70	.0015667	\$7.35
STAutumn	Autumn Bouquet # 15744816	1062	\$5,681.70	.0054556	\$5.35
STElf	Elf Legs Candle #15745060	1086	\$7,602.00	.0072995	\$7.00
STGinger	Gingerbread Candle #15744808	1050	\$5,617.50	.0053939	\$5.35
STHoHo	Ho Ho Ho Candle - #15745052	1092	\$7,644.00	.0073398	\$7.00
STPump	Pumpkin Pie #15744816	1776	\$9,501.60	.0091235	\$5.35
Strength	Spa Strengthen	93	\$683.55	.0006563	\$7.35
Stripe	Gentlemen's Blend - Stripes	61	\$446.85	.0004290	\$7.32
STSanta	Santa Face Candle - #15745078	930	\$4,975.50	.0047775	\$5.35
STSnowy	Snowy Tree - #15745045	2940	\$15,729.00	.0151031	\$5.35
Summert	Summertime	2338	\$14,866.43	.0142749	\$7.23
SumTree	Summer Tree	181	\$1,330.35	.0012774	\$7.35
SUNights	Summer Nights	300	\$2,194.14	.0021068	\$7.33
Surf	Vintage Surf	606	\$4,423.98	.0042479	\$7.31
Sweetheart	Sweetheart	102	\$749.70	.0007198	\$7.35
Tampa	Greetings From Tampa	156	\$1,146.60	.0011009	\$7.35
Tennessee	Greetings From Tennessee	78	\$573.30	.0005504	\$7.35
Texas	Greetings From Texas	128	\$940.80	.0009033	\$7.35
Thanks	Happy Thanksgiving	824	\$6,056.40	.0058154	\$7.35
TheBride	BYU - You May Now Kiss The Bride	8	\$63.60	.0000610	\$7.95

AS 019

PLU	Description	Qty Sold	Totals		Ave Price
This Day	On This Day	90	\$661.50	.0006351	\$7.35
TickAssort	Ticking Stripes Assortment	114	\$837.90	.0008045	\$7.35
TickChart	Ticking Stripes Chartreuse	30	\$220.50	.0002117	\$7.35
TickGreen	Ticking Stripes Green	33	\$242.55	.0002328	\$7.35
TickRed	Ticking Stripes Red	36	\$264.60	.0002540	\$7.35
TriTree	Triangle Tree	132	\$970.20	.0009315	\$7.35
Tropical	Tropical	91	\$661.74	.0006354	\$7.43
TuvaluLag	Tuvalu Laguna Postcard Private Label	48	\$384.00	.0003687	\$8.00
TuvaluPriv	Tuvalu Private Label Candle	48	\$384.00	.0003687	\$8.00
UncleTom	Greetings From Uncle Tom's	12	\$88.20	.0000846	\$7.35
Vermont	Greetings From Vermont	78	\$573.30	.0005504	\$7.35
VeryMuch	BYU - Thank You Very Much	128	\$1,017.60	.0009771	\$7.95
Vin-Paris	Vintage Paris	1645	\$9,651.33	.0092673	\$7.16
VinBells	Vintage Bells 0011815156	2514	\$13,398.78	.0128656	\$6.10
Vines	Ocean Vines	1042	\$6,373.50	.0061199	\$7.26
VinHolida	Vintage Holiday Wrap Collection	2511	\$15,794.55	.0151660	\$7.33
VinHolly	Vintage Holiday Collection - Holly	120	\$882.00	.0008469	\$7.35
VinParis	Vintage Paris	123	\$904.05	.0008680	\$7.35
Virginia	Greetings From Virginia	30	\$220.50	.0002117	\$7.35
Wagon	AnneMade Dog in Wagon	6	\$47.70	.0000458	\$7.95
Washingto	Greetings From Washington	54	\$396.90	.0003811	\$7.35
WinCab	Winter Cabin	432	\$2,584.80	.0024819	\$7.17
Winking	Winking Santa	222	\$1,631.70	.0015667	\$7.35
winnights	Winter Nights	114	\$829.14	.0007961	\$7.27
Winter	Winter	273	\$2,002.17	.0019225	\$7.33
Wisconsin	Greetings From Wisconsin	66	\$485.10	.0004657	\$7.35
WNCwind	Washington National Cathedral Parables	250	\$1,655.00	.0015891	\$6.62
Woof	Woof!	340	\$2,492.52	.0023933	\$7.33
Wyoming	Greetings From Wyoming	54	\$396.90	.0003811	\$7.35
Yankee	Yankee Doodle	267	\$1,861.11	.0017870	\$7.25
Yuletide	Yuletide	1872	\$11,749.08	.0112815	\$7.23
			\$1,041,438.12		

AS020

One of each

Aunt Sadie's creates candles for every marriage pairing

By Andrew Rapp
Editor

When Massachusetts began issuing marriage licenses to same-sex couples on May 17, the state was ready with revised applications that replaced the words "Bride" and "Groom" with the less exclusive (but less poetic) "Party A" and "Party B."

But much of the wedding industry was caught off guard. The wedding-related offerings in retail stores generally came in a single variety. Whether you were shopping for cards, cake-toppers, or candles your choices were pretty much straight or straighter. Now, following the flood of groom-groom and bride-bride pairings, has come an array of gay-appropriate small gift items.

Boston's own Aunt Sadie's, Inc. has recently released a trio of candles designed to fit all gender pairings. Adorned with festive stripes and the message "Oh happy day," the candles feature a portrait of a happy couple — two men, two women, or one of each — perfect for whatever your case may be.

Aunt Sadie's is a fixture of Boston's South End. Since launching in 1997, the shop has gained a wide following for its signature "candle-in-cans," scented candles encased in homey-but-classy metal cans. Their retail shop on Union Park Street is backed by a large wholesale business, which distributes Aunt Sadie's products throughout the country. Their collection is also available online at www.auntsadiesonline.com.

Though not yet available online, the marriage candles are available at Sadie's own store and retail outlets in the area, including the Human Rights Campaign store in Provincetown.

Gary Briggs, co-owner of Sadie's with designer Brian Schnetzer, introduced the candles to give all couples a twist on the traditional. When Sadie's unveiled the candles at the recent New York Interna-



tional Gift Fair, a tradeshow mecca for the retail industry, the response was very positive, said Briggs.

"Anybody who was in a gay-related market or had a gay clientele wanted [them] in their store," he said, noting that rather than picking a single gender pairing, folks want to mix and match. "They saw the story of having all three out there," said Briggs.

Briggs sees candles as a good fit for gift-givers on both sides of the altar. "It's a great gift to give if someone has just announced that they are getting married," he said. They also work well for informal ceremonies. "I've been to a few [ceremonies] that have been at people's homes," said Briggs. "It's a great gift for that."

Those getting married often use them as favors at showers or the main event. For orders of 100 or more, Aunt Sadie's will even custom design the labels, adding the couple's names, wedding date or a special saying.

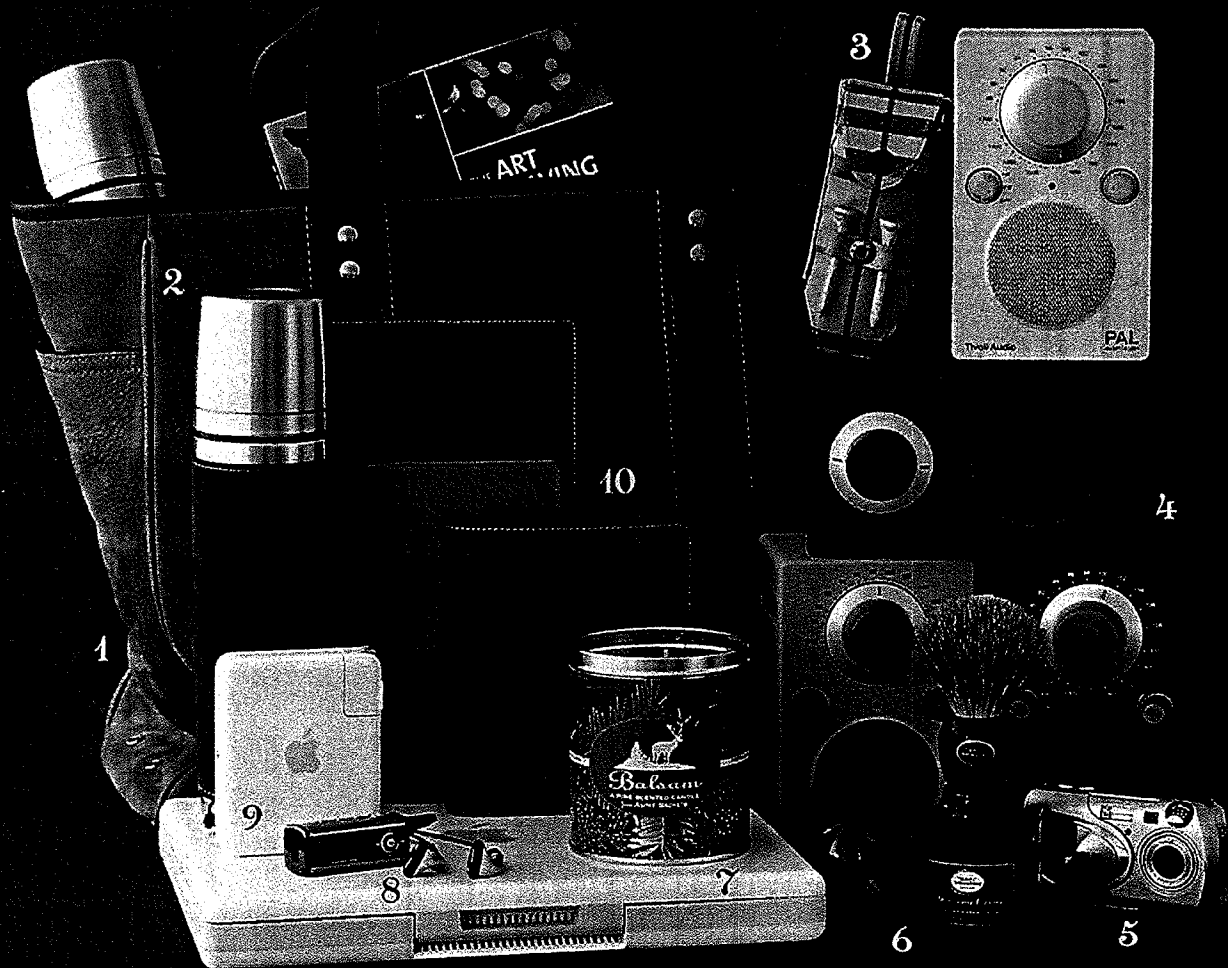
How to describe a scent in words? The candles carry Aunt Sadie's signature scent, which goes under the working title of "Ocean," but that doesn't really do it justice. The scent is natural and alluring, addictive without being intoxicating.

"We wanted something that was clean and somewhat universally appealing because it will be used in a number of different environments," said Briggs. He said they aimed for something that would take you away to someplace "vacationy ... out of day to day and transcended into a more relaxed environment."

In case you were wondering, there really was an Aunt Sadie. She was the inspiration for the store and her mastery of all things domestic informs all of the store's wares.

Gay marriage candles by Aunt Sadie's, Inc. Suggested retail price \$15. Available at 18 Union Park Street, area retailers and soon on the web at www.auntsadiesonline.com.

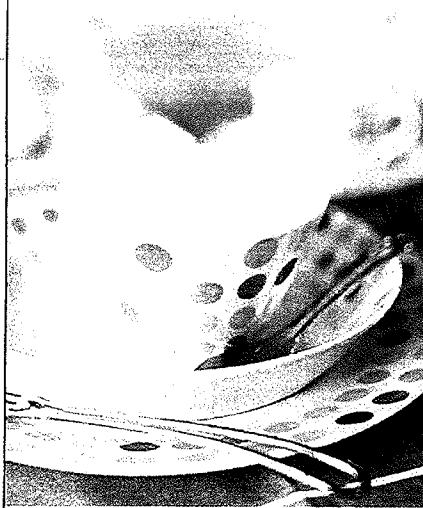
HOLIDAYshopping



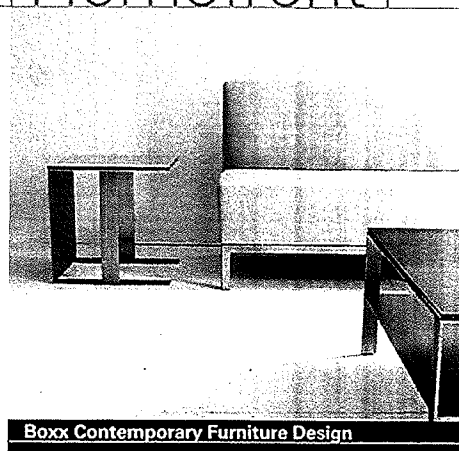
FOR HIM Give the man on the go gadgets and gear to keep him stylish yet comfortable when he's away from home

1. Travel in style with the new Flat Iron II Nubuc Drafting Tote from Coach (\$498). coach.com, (866) 262-2440. 2. Keep the java hot in Starbucks' new stainless-steel Sophisticate Bottles (\$29.95, 12 oz.) with a removable leather sleeve. starbucks.com, (800) STARBUC. 3. Send him off to the golf course with Burberry's Check golf ball and tee holder (\$55). (800) 284-8480. 4. Listen to the radio anywhere with Tivoli Audio's PAL (Portable Audio Lab, \$129.99). tivialaudio.com, (877) 297-9479. 5. Capture memories with the new 4-mega-pixel Stylus 410 Digital Camera from Olympus (\$349). olympusamerica.com, (800) 622-6372. 6. The Art of Shaving Set (\$100) includes pre-shave oil, shaving cream, shaving brush, after-shave balm, and book. theartofshaving.com, (800) 493-2212. 7. Aunt Sadie's scented candles (\$14 each) bring the outdoors home. auntsadiesonline.com, (877) 723-4371. 8. Download his favorite tunes on the smallest Digital Audio Player, Samsung's new YP-T5V (\$149.99). samsungusa.com, (800) SAMSUNG. 9. Apple's AirPort Express (\$129) is a mobile base station that can be plugged into the wall for remote Internet connection. Partner up the AirPort Express with one of Apple's great laptops, the 12" iBook (\$1,099). apple.com, (800) MY APPLE. 10. Get your life in order with a leather organizer and journal from Mont Blanc (\$95-\$250). montblanc.com, (800) 995-4810.

AS027



Lekker Unique Home Furnishings



Boxx Contemporary Furniture Design

SNAPSHOT

WASHINGTON STREET

For years, shopping on Washington Street meant Downtown Crossing. Now, boutique retailers are setting up shop in and around the "other" Washington Street, in the South End—many offering goods unavailable elsewhere in Boston or even in the United States.

Lekker Unique Home Furnishings (617-542-6464) focuses on European goods. Natalie Carpenter, co-owner with her husband, Curt, says, "We have beautiful linens and furniture from Belgium and new dinnerware from Germany." Natalie visits European trade shows to "look for the next best thing before the rest of the country discovers it," she says. The back wall features Dutch products, reflecting Natalie's roots.

For furniture and home accessories from the other side of the world, visit **Red River Trading Co.** (617-542-2223). The store moved to a new location in July, which more than tripled

the display space for its assortment of Asian antiques and reclaimed teak furniture. Owner Jonathan Golnik travels to Asia regularly to scout for Chinese antiques and handcrafted ceramics and textiles from Southeast Asia. "These all come from art co-ops," he says, "so the money goes to the artisans to help perpetuate their craft."

If, like Goldilocks, you can only find chairs that are too big or too small, head to **Biltmore** (617-423-7632). This custom-furniture company can modify chairs, sofas, ottomans and other furnishings to build a piece that's just right. "You can start with one of our basic designs or come in with a design you like," says manager Barbara Goldberg.

Stock up on decorative items for the home at **Aunt Sadie's General Store** (617-357-7117). Owners Brian Schnetzer and Gary Briggs launched their business selling hand-dipped

candles in 1998, and expanded their wares in 2000. "We have lots of unique home accessories, and we make our own candles right in our shop here," says manager Jessica Cipriani. "A lot of our merchandise is exclusive to our shop in the South End."

Boxx Contemporary Furniture Design (617-556-2699) offers modern furniture in made-to-order sizes. "Our pieces are custom-designed by the designers who created the line together," says owner John Hattersley. Check out the sleek sofas, glass-top tables and space-age lamps.

Gazala (617-426-6466) stocks Moroccan accessories. "I have a couple of requirements," says owner Elizabeth Plitzuweit. "Everything comes from Morocco, and everything is handmade. For the most part, I stock one-of-a-kind pieces." Plitzuweit says she gears her merchandise toward American taste in Moroccan design, and hand-picks her products during her purchasing trips.

For contemporary furnishings, visit **Sedia** (617-451-2474), a store that's been offering 20th-century furniture for the past 25 years. Its collection includes high-end reproductions of classic pieces created by more than 20 architects and designers.

Once you've stocked your home, it's time to treat yourself. Head home with some fabulous cheese from **South End Formaggio** (617-350-6996), a bottle of wine from **Brix** (617-542-2749) and pastries from **Flour Bakery + Cafe** (617-267-4300). And console the dog (who will no longer be allowed on your new sofa) with a biscuit from **Polka Dog Bakery** (617-338-5155).

—S.T.

Red River Trading Co.



Aunt Sadie's General Store

Turn to page 160 for additional shopping information.



beauty

what
kind
of

beauty

Turn the pages and find out!

beach beauty

Do see yourself hopping the beaches of Hawaii? Is your makeup must-have a pretty peach lip-gloss? Does perfect hair mean loose, windswept waves? You're a bona fide Beach Babe!

amanda
bynes



Haven't had enough of the beach? Then take the beach home with you! Fill your room with the yummy scent of suntan lotion.

▲ Aunt Sadie's Beach In a Can candle, \$16, auntsadiesonline.com



▲ John Frieda Beach Blonde Ocean Waves, \$7, drugstores

Try a styler that mimics beach hair to add body and dimension. If you don't have a "beachy" product, Graham Webb hair expert Jarrod Harms suggests mixing a pea-size dab of conditioner with twice as much gel.

This summer, your skin will take a beating from the heat, chlorine and sun. Look for a body moisturizer containing natural oils to keep you soft and smooth.

► Bath & Body Works True Blue Spa Tahiti Sweetie Body Lotion with Monoi Oil, \$15, bathandbodyworks.com



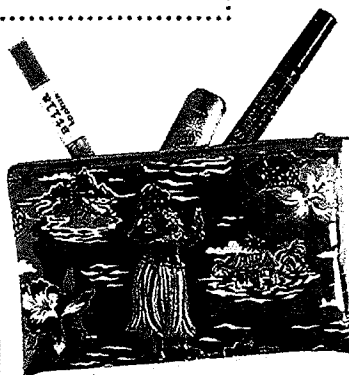
Always use a sun-screen that has an SPF of 15 or higher, and that protects against both UVA and UVB rays.

► Banana Boat Sensitive Skin Plus SPF 30, \$8, drugstores



The beach babe's three makeup essentials? A barely-there peach lipgloss, waterproof mascara and a shimmer bronzer to highlight your skin where the sun naturally hits (forehead and cheekbones).

◀ Stila Brilliant Lip Glaze Double in Vanilla/Apricot, \$10, stilacosmetics.com. BonneBell Sunblush Bronze, \$4, drugstores. Rimmel Extra Super Lash Waterproof Mascara, \$3, drugstores. Makeup bag, Nick & Nora, \$17, sleepyheads.com



Mark Instant Vacation fragrance

Get swept away to a tropical paradise with Mark Instant Vacation fragrance, \$15, www.meetmark.com. To enter, send a 3x5 postcard to: J-14/Mark Instant Vacation Giveaway, P.O. Box 1665, Englewood Cliffs, NJ 07632.



AS 030



Get glam by applying a curl-enhancing mousse to damp hair, then blow dry. Next, hair expert Marc Anthony suggests creating a side part and securing 8-12 hot rollers on hair. (Parting before rolling is key). Remove rollers after they completely cool and finger through a gloss. Finish by running a paddle brush over hair to smooth and loosen curls.

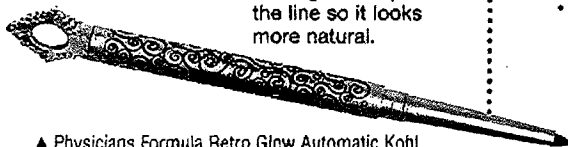
▲ Alberto VO5 Curvaceous Curls Styling Mousse, \$4, drugstores



▲ Aunt Sadie's Fifi On Pink candle, \$16, auntsadiesonline.com

Whisk yourself off to an evening in Paris (okay, just pretend) with this floral-infused candle. Tip: Refrigerating your candles before using them will help them to burn slowly and evenly.

For subtle eyes, apply a medium brown shade to lower and upper lids. Smudge a Q-tip over the line so it looks more natural.



▲ Physicians Formula Retro Glow Automatic Kohl Eyeliner Pencil in Bronze-Kohl, \$6, drugstores



▲ Maybelline New York Expert Wear Shadow in Eternal Flame, \$5, drugstores

To complement a deep red lip, apply a golden eye shadow from upper lids to browbone. To make your eyes look super-sparkly and awake, apply a good concealer to upper lids, where most of the darkness originates, says makeup artist Giella.

► L'Oréal Colour Juice Lip Gloss in Cherry on Top, \$8, drugstores

The appeal of a glamour girl lies in her subtle eye makeup and racy, red lips. Added bonus: Makeup artist Eva Scrivo says that blue-based lipsticks reflect a cool tone and make teeth look whiter!



glamour girl

Is your dream vacation traveling through the chicest locations in Europe? Do you prefer glitz to grunge? Could you sashay down the red carpet with the best of 'em? You're a genuine Glamour Girl!



scarlett johansson

Benefit Cosmetics Hollywood Glo

Do the words "lights, camera, action!" get your heart racing? Then try this liquid rose-hued bronzer. It gives a soft, luminous, red carpet-worthy glow with its warm, light-reflecting pigments. \$22. To enter, log on to benefitcosmetics.com/J14 for details.



we've got 50

April 7, 2005

Sarah Gregory
Christmas Tree Shops
261 Whites Path
S. Yarmouth, MA 02664



18 Union Park Street
Boston, MA 02118
ph 617.357.7117
fax 617.338.2044

Dear Sarah,

Thanks for speaking with me about the 8 oz. Candle Tins being produced and sold by Christmas Tree Shops. As discussed, this is an infringement on copywrite and trademark rights afforded to Aunt Sadie's by the United States Patent and Trademark Office.

I've enclosed a copy of Aunt Sadie's current catalog. We have been producing and selling the candles you see in the catalog for the past 5 years.

As you are aware, one of the key factors in determining trademark infringement is whether the product in question creates brand confusion among customers. I've also enclosed a letter from one of our customers for review related to this issue. We've also had numerous calls from customers asking why we are selling our candles to The Christmas Tree Shops.

In analyzing your candle, it is also clear that offering this product as a scented candle is quite misleading to your customer, given the quality and amount of fragrance contained in the candle. Regardless of whether you agree with our position, The Christmas Tree shops should be ashamed at offering such a sub-standard product.

We respectfully request that you cease the manufacture and sale of these candles immediately. Aunt Sadie's was founded on basic moral principles: to produce the highest quality product in the spirit of fun and with regard to fairness of other manufacturers in the marketplace. Our company was founded to honor the life of Sadie Denton, the grandmother of company co-owner, Brian Schnetzer. A lot of hard work and tireless effort has gone into creating our niche in the marketplace and we will aggressively enforce any infringement on the rights of our company.

We thank you in advance for your cooperation. If you have any questions, don't hesitate to contact me at 617-357-7117 x202.

Sincerely,


Gary Briggs
Co-Owner

CTS0337

Carol Wright
(508) 240-1414
Fax (508) 240-1135



One Main Street Square, P.O. Box 1550, Orleans, MA 02653

FAUX LEATH CANDLE HOLDERS

Rich look of leather candle with glass votive or tealight cups. Assorted sizes in black or tan. (Tealights and votive candles not included.)

\$3.99, \$6.99, \$9.99

plaques in several shapes and colors.
\$2.99 ea.



MONACO PATIO SET

9 pc. aluminum set with wrought iron base and 66" x 38" glasstop table. Includes 9 ft. crank/tilt market umbrella and 6 sling chairs. (Lights sold separately @ \$3.99)

\$399.99

CLEAR-LIKE-GLASS TABLE ACCESSORIES

Unbreakable, harder than plastic, clear like glass. Plates, bowls, tumblers, and more. Microwave and dishwasher safe.

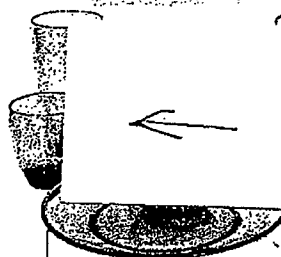
\$1.69 and \$3.99 ea.



8 OZ. CANDLE TINS

Celebrate birthdays, baby showers, and summer parties with 8 oz. candle tins. Assorted scents.

\$1.99 ea.



CYLINDER

PLANTER BARRELS

Cedar barrels for container gardening on the deck or patio. Four sizes.

\$6.99 to \$16.99



ROOM SIZE RUGS

A classic! 5' x 7' rugs in a variety of prints and colors.

\$39.99 ea.





P.O. Box 1550
One Main Street Square
Orleans, MA 02653
(508) 240-1414

31 March 2005

Aunt Sadie's

Hello there —

We are fans of your creative candles
and non-fans of the Christmas Tree Shop copycat standards —
you may want to check out what they are
up to in "candle-tins". Looking forward to
our summer order —

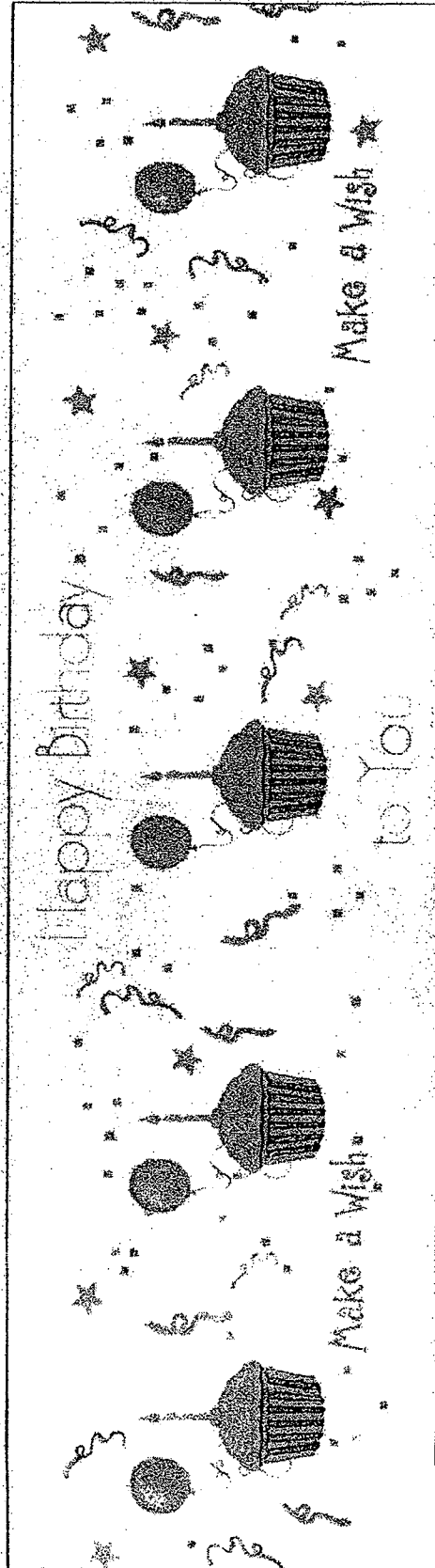
Carol Wright

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CTS0346

✓ good



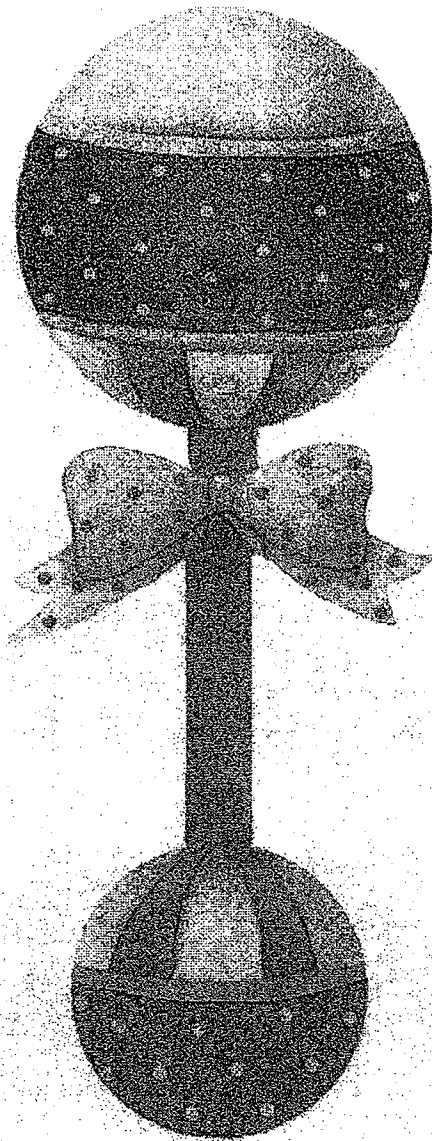
Manufactured By:
Karen Sulphem Q4

CTS0347

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CTS0201



Nantucket Dist.
Karen Sutphen 9/04

CTS0202

Candle Tins

Sub	Vendor	UPC	SKU	Description	Cost	Retail	Up %	Mark Case	Ad	On Ord	Qty	On Ord	Reserv	Whse	Stores	Last 7	Store	Total	Sales	Last 7	Sls YTD	Total OH	Last Rcvd	DI
107	96834 Prude	14048401	6834019	Tin Candle 8oz Tropical	\$0.968	\$1.99	51.4	36		0	0	0	0	24084	9045	572	15	57	2857	1138	5666	65927	2/25/05	
107	96834 Prude	14087691	PLNT2004HB	Tin Cndl 8oz Happy B-day	\$1.016	\$1.99	49	36		0	0	0	0	9432	6030	594	10	26	2532	1182	5026	30769	3/16/05	
107	96834 Prude	14087707	PLNT2004B	Tin Cndl 8oz Baby Boy/gir	\$1.016	\$1.99	49	36		0	0	0	0	4140	4758	589	8	15	3115	1172	6185	17707	3/16/05	

Averages and Totals (in thousands):

37,626
19,833

57,489 OH

66,024 Purchased

7504

CTS0345



It's Great to Create



SUSAN R. BOERMAN ©2001

Acrylic Gouache
or Acrylic

Susan R. Boerman

Frosty's Snow Cones

Continued from page 17.

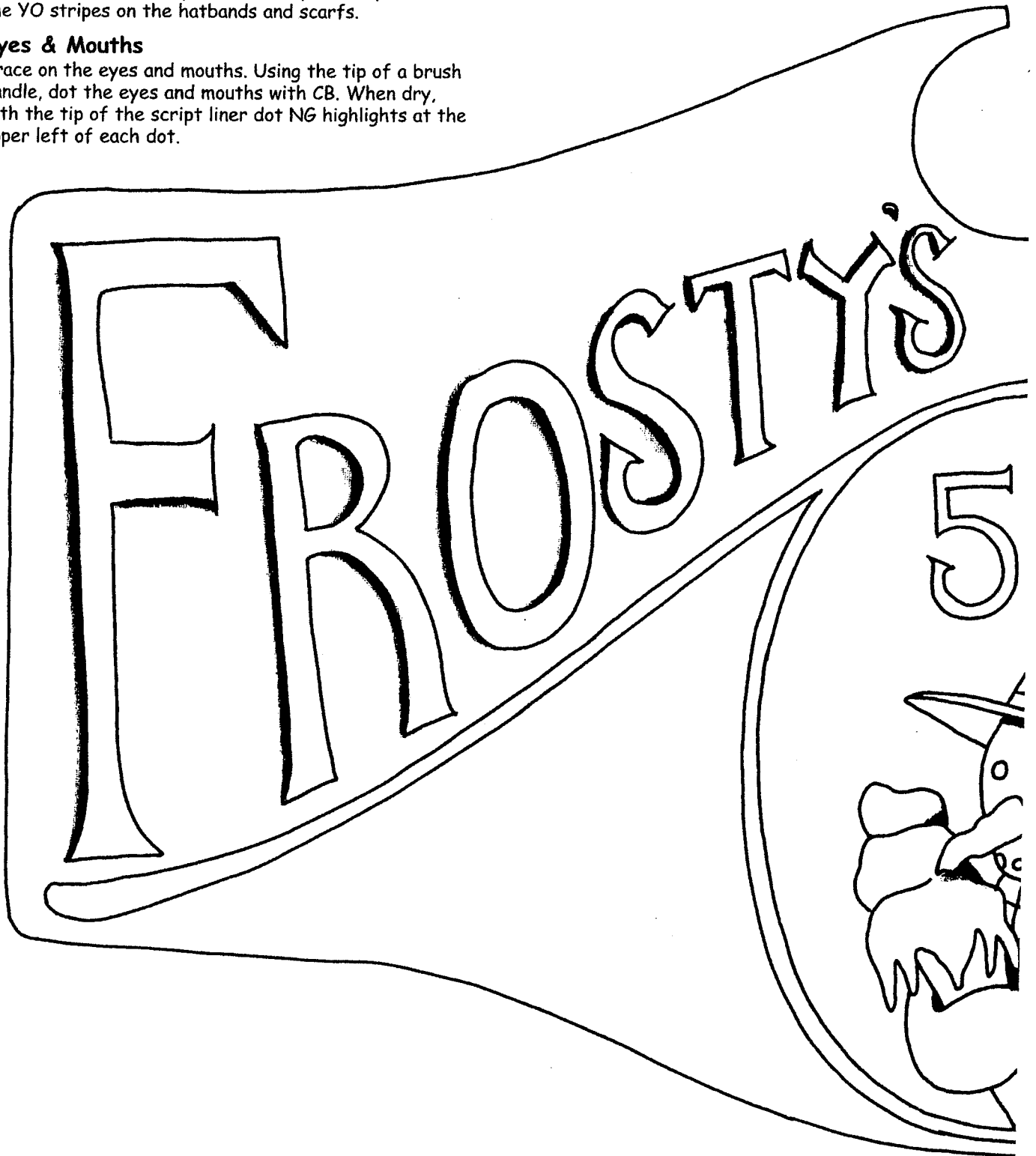
Apply it closer to the left side of the hatband, the middle area of the scarf around the neck and the middle of the scarf flap. With a script liner, paint the YO stripes on the hatbands and scarfs.

Eyes & Mouths

Trace on the eyes and mouths. Using the tip of a brush handle, dot the eyes and mouths with CB. When dry, with the tip of the script liner dot NG highlights at the upper left of each dot.

5¢

With the chiseled edge of a #2 filbert, dry-brush YO highlights. Next, apply YL highlights.



Lettering & Striping

With a #2 filbert, highlight with NC. The smaller letters and the striping will have to be done with the chiseled edge. The next highlight is NRL.

The last highlight is YO applied only on the lettering.

With the #2 script liner and ink-like YO, outline all the letters and the striping. When dry, with a #10 shader, float CB on the left outside edge of each of the letters.

Finishing Touches

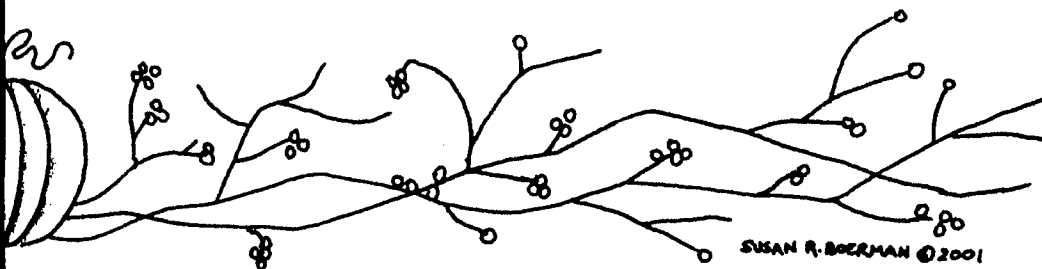
When projects are dry, spray with Krylon Matte Finish, 1311.



SNOW
CONES

SUEAN R. BOGEMAN ©2001





CTS Access - BY178 Report

Sub	Vendor	UPC	SKU	Description	Cost	Retail	Mark Up %	Case	Ad	On Ord	On Ord	Reserv	Whse	Stores	Last 7	Store	Total	Sales	Last 7	Sls YTD	Total OH	Last Rcvd
										Qty	\$\$\$	Qty	OH	OH	Dy Sls	Wk Sp	Wk Sp	YTD	Day \$\$\$	\$\$\$	\$\$\$	Dt
751	96000	Jack	13917678	32F25356 %	Painted Christmas Hanger	\$1.366	\$1.99	31.4	36	0	0	0	1332	134	10	13	146	14	19	27	2917	11/9/04

Averages and Totals (in thousands):

CTS0290

CTS Access - BY178 Report

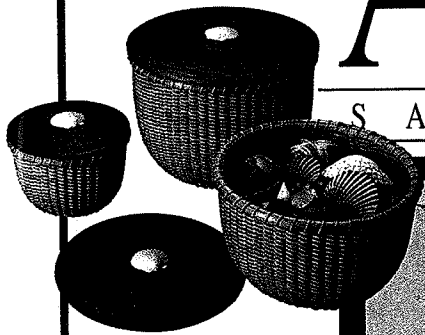
Sub	Vendor	UPC	SKU	Description	Cost	Retail	Mark Up %	Case	Ad	On Ord	On Ord	Reserv	Whse	Stores	Last 7	Store	Total	Sales	Last 7	Sis YTD	Total OH	Last Rcvd
										Qty	Qty	Qty	OH	OH	Dy Sis	Wk Sp	Wk Sp	YTD	Day \$\$\$	\$\$\$	\$\$\$	Dt
809	96000	Jack	13915988	32F25287	Fall Painted Plaque	\$1.225	\$3.99	69.3	36	0	0	0	0	1	0	0	0	0	0	0	4	8/18/04

Averages and Totals (in thousands):

CTS0292

2005 April

S A V I N G S



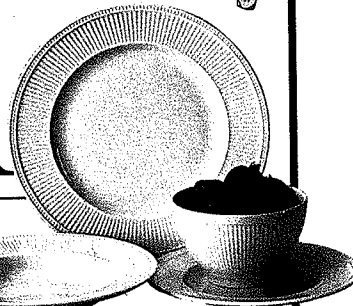
NANTUCKET-STYLE BASKETS

Classic style, crafted from rattan includes wooden cover with a pretty faux shell accent. Three sizes.

\$2.99, \$4.99, \$9.99



Don't you just love a bargain?®

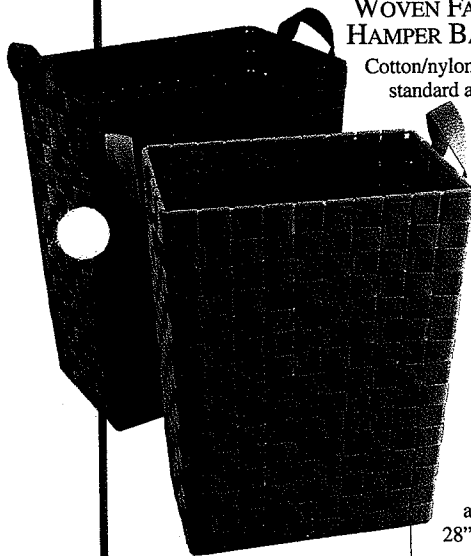


WEDGWOOD® WINDSOR DINNERWARE ENSEMBLE

Choose from dinner plate, soup bowl, mug, teapot, and more.

Comp. values: \$30.00 to \$120.00

\$1.99 ea.



WOVEN FABRIC HAMPER BASKETS

Cotton/nylon hampers in assorted standard and fashion colors.

Choose from small, medium, or large.

\$6.99 to \$12.99



FAUX LEATHER MINI BOXES

Boxes are perfect for storage of small things or as gift boxes. Assorted colors available.

\$1.00 ea.

MISSION STYLE BOOKCASE

Solid wood Mission style bookcases by O'Sullivan® in natural or cherry finish. Some assembly required.

28" l x 12" w x 36" h

\$19.99

30" l x 12" w x 60" h

\$29.99



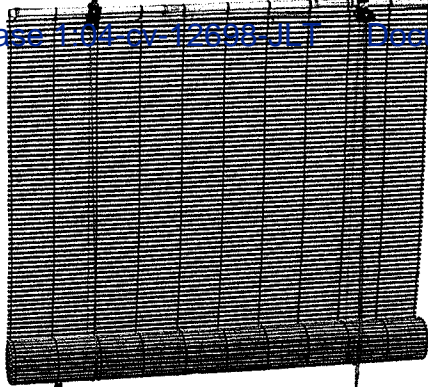
CELEBRATION STAKES

Cute wooden stakes celebrate your special day. Not shown: Baby boy or girl. 36" h

\$3.99 ea.



Don't you just love a bargain?®

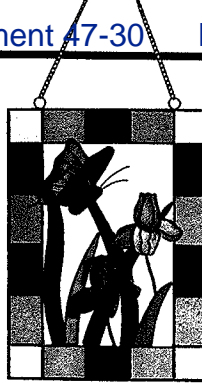


BAMBOO BLINDS

A natural choice for any room. Natural and stained slats create a decorative pattern. Choose from natural, green, or blue.

30" x 72" or 36" x 72" **\$4.99 ea.**

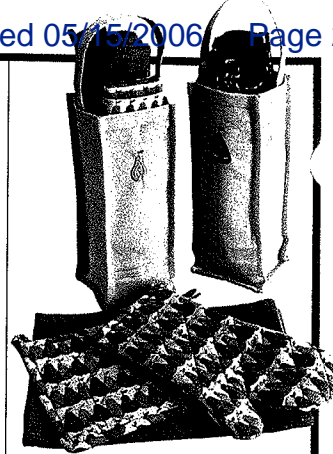
72" x 72" **\$12.99 ea.**



WINDOW DÉCOR

Sparkling glass window designs shine in the spring sun. Assortment includes wind chime, wreath, glass hanger.

\$6.99 ea.



KITCHEN IN A BAG

Set includes 4 placemats, 4 napkins, kitchen towel, oven mitt, and pot holder, all packed in a canvas wine tote. Assorted designs.

\$6.99 ea.

MILANO OUTDOOR LIGHTING

Euro-style outdoor lighting is crafted of die-cast, rust-proof aluminum. White, antique bronze, or black finish. (Bulb not included).

17" Wall Mounted Lights

\$19.99 2-pack

76" Deck Light

\$29.99

85" Triple-headed Street Lamps

\$69.99

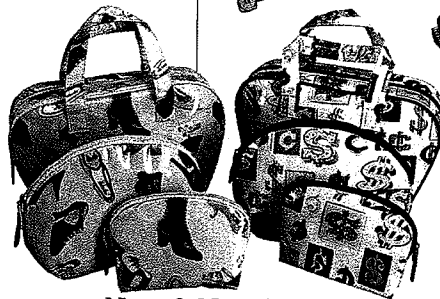
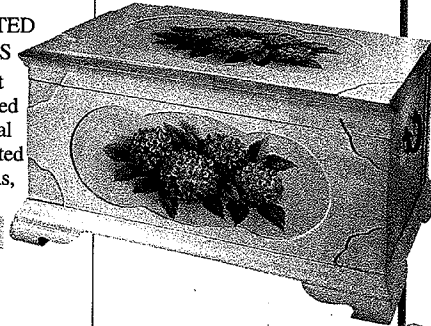


HAND-PAINTED CHESTS

Elegant hand-painted chests in floral designs. Assorted styles, patterns, and sizes.

\$12.99 to

\$39.99



NICK & NORA® BAGS

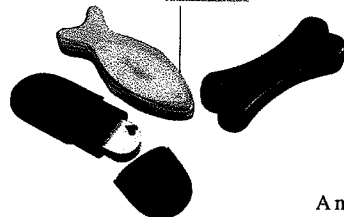
Trendy colors and designs.

3 pc. bowling bag set. **Comp. value: \$28.00**

\$9.99

15 pc. travel set (not shown) **Comp. value: \$40.00**

\$14.99



PLAYING CARDS

Stock up for fun evenings! Playing cards in whimsical shapes in sturdy plastic cases.

Comp. value: \$4.99

\$1.00 pack

POP-UP GARDEN BAG

A must for spring yardwork! Durable waterproof poly bag opens to 28", collapses for easy storage. Assorted colors.

\$5.99



SUSHI SETS

Exotic dinnerware sets inspired by the Far East. Choose from sushi or noodle sets for two. Assorted colors and styles.

\$4.99 to \$9.99



FAUX LEATHER CANDLE HOLDERS

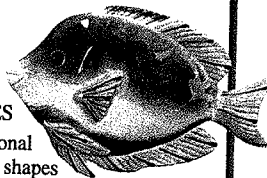
Rich look faux leather candle holders with glass votive or tealight cups. Assorted sizes in black or tan. (Tealights and votive candles not included.)

\$3.99, \$6.99, \$9.99

PORCELAIN FISH PLAQUES

Three dimensional plaques in several shapes and colors.

\$2.99 ea.



MONACO PATIO SET

9 pc. aluminum set with wrought iron base and 66" x 38" glasstop table. Includes 9 ft. crank/tilt market umbrella and 6 sling chairs. (Lights sold separately @ \$3.99)

\$399.99

CLEAR-LIKE-GLASS TABLE ACCESSORIES

Unbreakable, harder than plastic, clear like glass. Plates, bowls, tumblers, and more. Microwave and dishwasher safe.

\$1.69 and \$3.99 ea.



8 OZ. CANDLE TINS

Celebrate birthdays, baby showers, and summer parties with 8 oz. candle tins. Assorted scents.

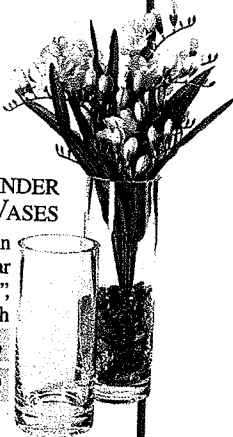
\$1.99 ea.

CYLINDER GLASS VASES

Crafted in thick clear glass. 6", 9", or 12" h

\$2.99 to

\$4.99



PLANTER BARRELS

Cedar barrels for container gardening on the deck or patio. Four sizes.

\$6.99 to \$16.99



ROOM SIZE RUGS

A classic! 5' x 7' rugs in a variety of prints and colors.

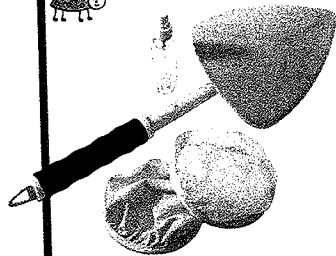
\$39.99 ea.





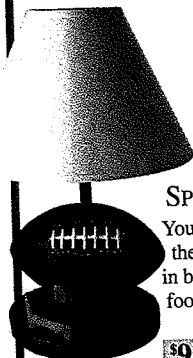
**ENERGY STAR RATED
SAMSUNG® AIR CONDITIONER**
8000 BTU air conditioner includes electronic touch, remote control. Has 3 cool/fan speeds, on/off timer, and sleep mode.

\$149.99



PERFECT GLASS CLEANER
As seen on TV! Cleans glass fast. Kit includes Perfect Cleaner, grime-buster bonnet, microfiber reusable bonnets, and spray bottle. Comp. value: \$9.99

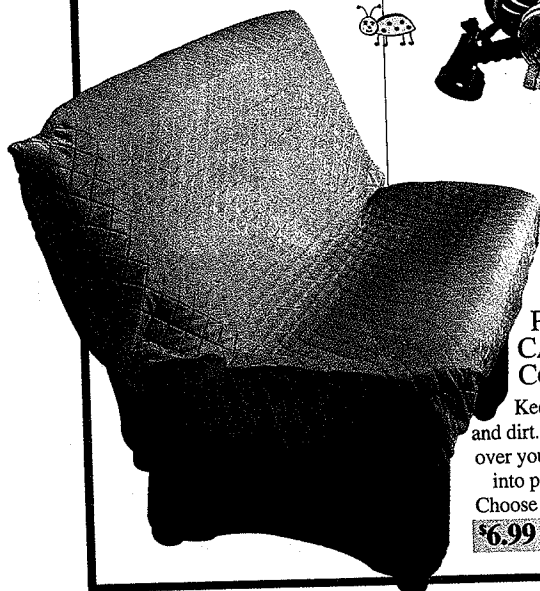
\$4.99



KIDS' SPORT LAMPS

Youngsters will love these sports lamps in basketball, soccer, football, or baseball design. 15" h

\$9.99 ea.



PET CAR SEAT COVER

Keep your car free of pet hair and dirt. Full-size quilted cover fits over your car's back seat and clips into place. Machine washable. Choose from black, gray, or khaki.

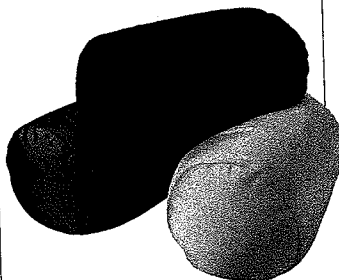
\$6.99



PIROULINE CHOCOLATIER TIN

Hazelnut-filled wafers for the chocolate lover. 16 oz. tin

\$4.99



SQUISHY BOLSTER PILLOWS

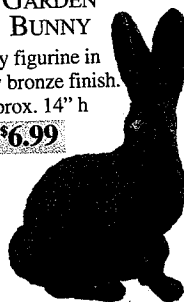
You'll want several. Assorted fashion colors. Comp. value: \$9.99

\$3.99 ea.

GARDEN BUNNY

Bunny figurine in our new bronze finish. Approx. 14" h

\$6.99



RETRO SIGNS AND TINS

1940s style decorative pieces in traditional tin.

\$1.99 ea.



COLLAGE FRAMES

Only the best for your photos! Wooden frames in classic soft antique finish display several photos. Assorted sizes.

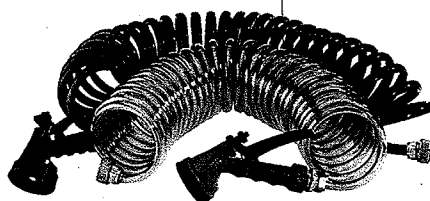
\$9.99 ea.



GERANIUMS

Choose from colorful faux geranium bush or set of three blossoms in a wooden tray.

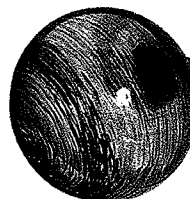
\$2.99 and \$3.99



COIL HOSE

25 ft. with four-dial sprayer. Brass fittings. Hunter green, violet, blue and berry. Colors may vary by store.

\$4.99



GAZING BALL

8" glow-in-the-dark gazing ball on a metal stake.

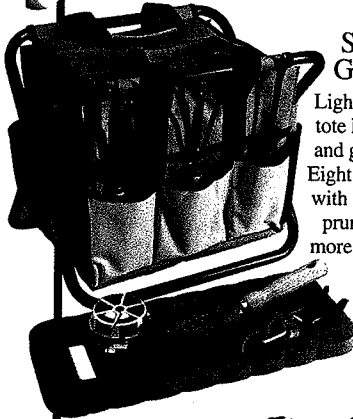
\$12.99



COLORFUL STRING LIGHT SETS

For festive occasions. Indoor/outdoor use. 10 lights per string. Designs include pinwheel, gift box, and more.

\$3.99 ea.



SIT-ON GARDEN TOTE

Lightweight, portable tote lets you sit down and garden with ease. Eight pockets are filled with trowel, knee pad, pruning shears, and more. Assorted colors.

\$14.99



PLANT STAND

Wooden stand in natural finish for your favorite plants. 37" x 29 1/4" x 35 1/2"

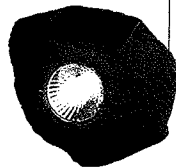
\$29.99



DOG TOYS

Help your dog stay active, healthy, and happy. 24 great toys to choose from.

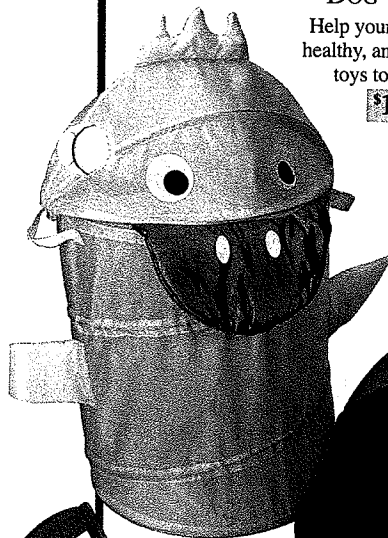
\$1.00 ea.



SOLAR LIGHT STONE

Poly resin stone hides a "green energy" super-bright LED light powered by the sun or rechargeable Nicad battery. Gives 8 hours of light. Two sizes.

\$6.99 ea.



ANIMAL POP-UP BINS

Novelty hampers in sturdy nylon include duck, frog, elephant, and dog. 22" h

\$4.99 ea.



GARDEN BOY AND GIRL

Playful verdigris yard figurines in resin. Approx. 18" h

\$12.99 ea.



ASPIRATIONS PATIO SET

7 pc. set includes coffee table (27" x 43" x 18"), 2 chairs, loveseat, and 3 cushions. Plantation certified eucalyptus wood.

\$299.99



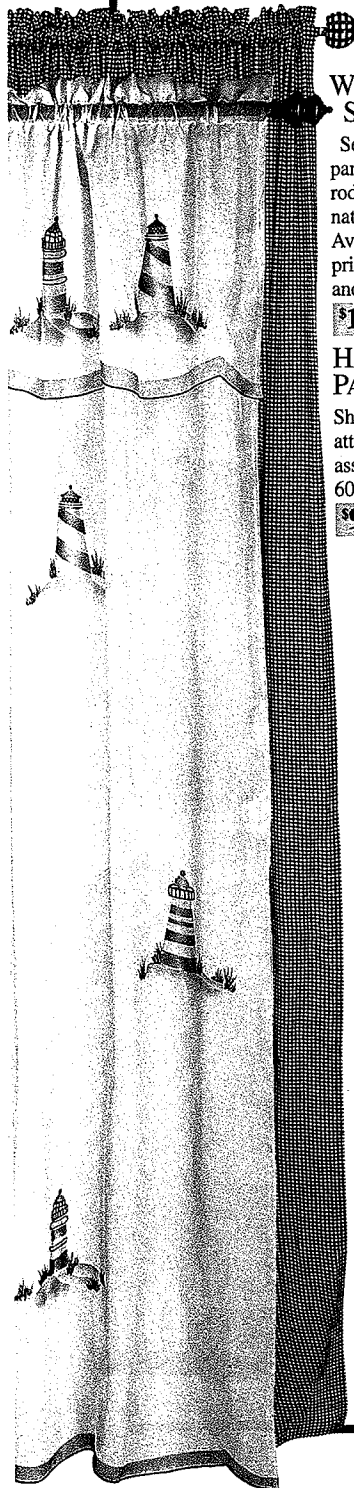
GIFT BAGS AND TISSUE
 Gift bags in solid colors or with
 stylish glitter.
\$2.99 to \$1.00
 Coordinating tissue
\$1.00



**PORCELAIN
 MUG AND COASTER
 GIFT SETS**
 Fresh floral patterns
 decorate mugs and coasters in
 beautiful matching gift boxes.
 Assorted patterns.
\$3.99 ea.



MAKE IT MELAMINE
 Dishes look like porcelain but are sturdy
 melamine. Choose from dinner plates,
 bowls, cups, serving accessories, and more.
\$1.89 to \$2.99



**WINDOW
 SET**

Set includes two
 panels and curtain
 rod with coordi-
 nating finials.
 Available in
 prints, gingham,
 and stripes.

\$14.99

**HAND-PAINTED
 PANELS**

Sheer panels with
 attached valance in
 assorted designs.
 60" w x 84" l

\$9.99

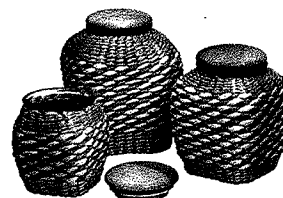


TWININGS® TEAS

Tea time is any time.
 Assortment includes black
 currant, lemon-ginger,
 afternoon decaf,
 and more. Reg. \$1.99

\$1.69 ea. or

2 for \$3.00



WOVEN STRAW CANISTERS

Glass straw-covered canisters
 with dome wooden lids. Small,
 medium, and large.

\$1.69 to \$2.99



**RED HAT
 ACCESSORIES**

Adorable trinket boxes, eye glass
 holders, and more. Poly resin.

\$1.00 to \$3.99

PORCELAIN UMBRELLA STAND

Porcelain stands in a variety of patterns.
 Styles may vary by store. 18" h

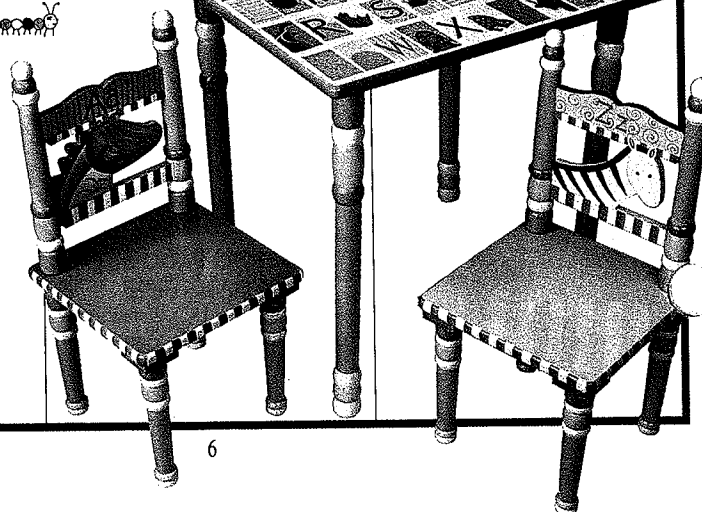
\$9.99 ea.

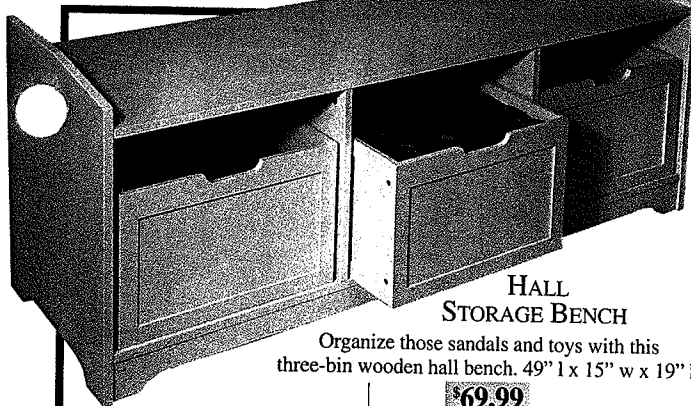


CHILDREN'S TABLE SET

3 pc. set in four adorable
 original hand-painted designs.
 (Table: 22" l x 19" w x 21" h)

\$29.99





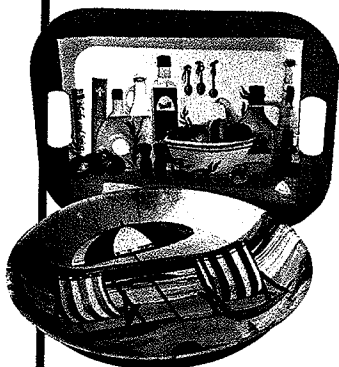
HALL STORAGE BENCH

Organize those sandals and toys with this three-bin wooden hall bench. 49" l x 15" w x 19" h

\$69.99

**FLORAL
WALL ART**
Enchanting canvas art pieces are topped with a classic metal fleur-de-lis design. Assorted styles. 26" x 15"

\$9.99 ea.



CASUAL TRAYS AND BOWLS

Perk up your parties. Wide assortment of colorful, durable serving trays and bowls.

\$1.00 ea.



PORCELAIN TRINKET BOXES

Delicate hinged boxes crafted in traditional limoge style with asian motif. Assorted shapes and patterns.

\$1.29 ea.



PRESSURE COOKER

Classic stainless steel pressure cooker saves time in the kitchen. Crafted in three-ply clad metal with built-in safety features. Available in 2½, 3½, or 4½ qt.

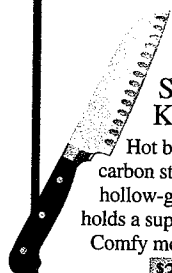
\$9.99 to \$19.99



MILANO DINNERWARE

Hand-painted ceramic dinnerware in Italian-inspired fruit pattern. Choose from dinner plates, salad plates, mugs, platter, and more.

\$1.69 to \$6.99



SANTOKU KNIFE

Hot buy! High carbon stainless-steel hollow-ground blade holds a super-sharp edge. Comfy molded handle.

\$3.99

FAUX LEATHER BOXES

Assorted round boxes in pastel shades. Five sizes.

\$2.99 to

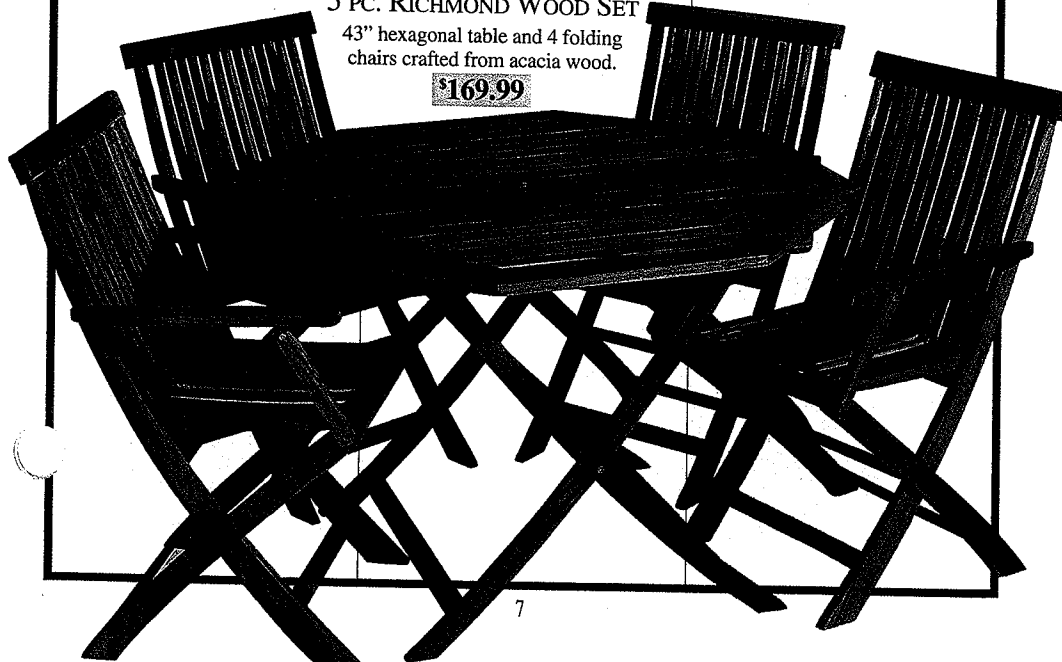
\$6.99

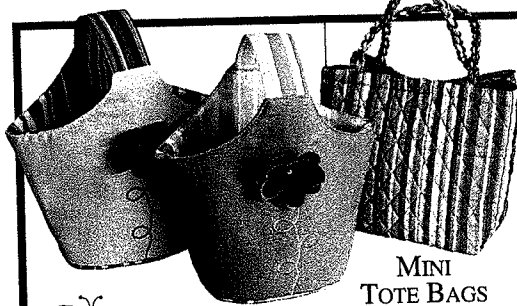


5 PC. RICHMOND WOOD SET

43" hexagonal table and 4 folding chairs crafted from acacia wood.

\$169.99

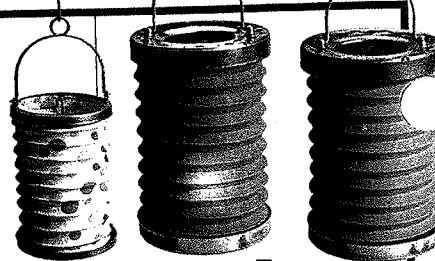




MINI TOTE BAGS

Choose from quilted striped bags with braided handles or open-top totes with a sweet flower blossom.

\$2.99 ea.



ACCORDION PLEATED FABRIC AND METAL LANTERNS

Available in two sizes and a variety of fun prints and solid colors. For tealight use only. (Tealights not included.)

\$3.99 and \$6.99

AWNING

ADJUSTABLE
8'w x 12'l 300D
PU COATED
POLYESTER
AWNING WITH
POWDER COATED
ALUMINUM
FRAME.
\$169.99



BASKET BONANZA

Colorful wooden baskets in assorted shapes and colors.

\$3.99 to \$6.99



BAR STOOLS

Wood with rush seats. Available in black or white. 24" or 29" h

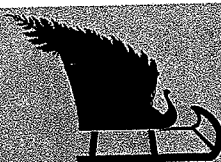
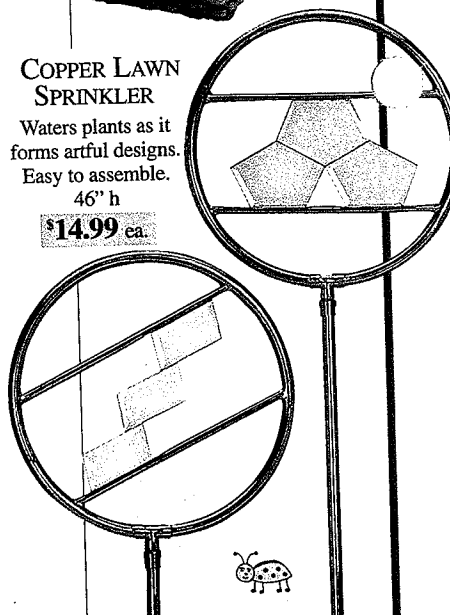
\$16.99 ea.



COPPER LAWN SPRINKLER

Waters plants as it forms artful designs. Easy to assemble. 46" h

\$14.99 ea.



Christmas Tree Shops®
Don't you just love a bargain?®
www.christmastreeshop.com

*Styles may vary by store;
quantities limited to stock on hand;
no substitutions or rain checks;
not available through catalog or
internet; store manager reserves
the right to limit the number of
same items per customer.*

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Falmouth - Rte. 28 • Pembroke - Rte. 139 • Orleans - Rtes. 6A & 28 • Sagamore - Cranberry Highway
Avon - Rte. 24 • Lynnfield - Rte. 1 • Shrewsbury - Olde Shrewsbury Village • Holyoke - Holyoke Mall at Ingleside
North Attleboro - Rte. 1 South • Natick - Rte. 9 • In FL: Newport - Middletown • Warwick - Rte. 2
In CT: Manchester - 120 Hale Road • Danbury - I-84, Exit 3, Rte. 7 South, Exit Park Ave. • Orange - Rte. 95, Exit 4
In NH: Salem - Rte. 28 and Cluff Crossing Road • Nashua - Rte. 3, Exit 6 • In NY: Albany - Colonie Center
Spring Valley - Rte. 59 • North Syracuse - Northern Lights Mall, Rte. 81, Exit 26 (US-11)
In ME: South Portland - Exit 45 off Maine Turnpike • In VT: Williston - Maple Tree Place, Rte. 89, Exit 12
All stores open at 9 a.m. Call the Christmas Tree Shop nearest you for convenient Sunday shopping hours.

